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VOLUME III

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at Frankfort, in the Year of Our Lord 1994,
and in the Two Hundred and Second
Year of the Commonwealth

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Sine Die on Friday, the Fifteenth Day of April, 1994

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MONDAY, MARCH 14, 1994

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend John Calloway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Fox and Lyne.

Senate Message

Announcing passage of **SB 100, SB 136, SB 305, SB 314, SJR 68, SCR 81, SCR 86** and **HB 91**.

Message received on **HB 211**: The Senate has passed **HB 211** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body. (Time: 4:05 p.m.)

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 11, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to **HB 798**, by Representative Lindsay:

On page 1, line 17, by deleting lines 17 through 22 in their entirety;

And on page 2, line 6, by deleting lines 6 through 14 in their entirety and inserting in lieu thereof the following:

"***In any action seeking to recover damages on behalf of a recipient, the cabinet shall receive notice from the recipient's attorney in the same manner as provided in KRS 411.188 (2) for notifying parties with subrogation rights.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 481**, by Representative Brown:

On page 3, line 17, after "principles" by inserting "***and federal law***"; and

on line 23, after "assessment." by inserting "***The commission shall provide for the October 18, 1993 study performed by the University of Kentucky to be completed within thirty (30) days of the effective date of this Act to comply with the requirements of this subsection.***"; and

On page 4, line 1, after "***with the***" by inserting "***completed***"; and

on line 3, after "~~with the cabinet~~]." by inserting "***The person contracted with to recommend revisions or amendments to the study shall identify in writing any inconsistencies of the draft administrative regulations required by subsection (4) of this section with the completed study.***"; and

on line 4, after "on" by inserting "***the completed study report and***"; and

on line 6, after "***approve***" by inserting "***the completed study report and***"; and

on line 9, after "shall" by deleting "***incorporate***" and removing the bracket and strikethrough of "[~~adequately protect human~~"; and

on line 10, before "the study" by removing the strikethrough of "~~health and the environment, and shall~~"; and

on line 10, after "health" by inserting "***, safety,***"; and

on line 10, after "shall" by placing a bracket before "~~be based upon~~]" and after "~~upon~~]" by inserting "***incorporate***"; and

on line 11, after "***law***" by inserting "***or as provided in subsection (4) of this section***" and by deleting "***. The cabinet shall***"; and

On page 4, lines 12 through 17 by deleting all the text thereon; and on line 18, before the "." by deleting "***hundred eighty (180) days of approval by the commission***"; and

on line 22, after "(4)" by inserting "***Within ninety (90) days of the receipt of the completed study report the cabinet shall prepare draft administrative regulations for submission to and review by the person performing the study. The comments required pursuant to subsection (2) of this section shall be filed with the commission and the cabinet within sixty (60) days of receipt of the draft administrative regulations by the commission. If any inconsistencies are identified, the person conducting the review and the cabinet shall confer to resolve the inconsistencies, and report to the commission within sixty (60) days. If the person conducting the review and the cabinet are unable to resolve the inconsistencies, the cabinet and the commission shall appoint an independent peer review group to resolve the inconsistencies and recommend amendments to the draft administrative regulations within sixty (60) days of appointment. The peer review group shall be appointed by agreement of the cabinet and the commission. The cabinet shall amend the draft administrative regulations to incorporate the amendments recommended by the peer review group and file the administrative regulations with the Legislative Research Commission within thirty (30) days of receipt. The administrative regulations shall be promulgated pursuant to the provisions of KRS Chapter 13A***", and by placing a bracket before and striking through "Upon adoption of the administrative regulations promulgated pursuant to subsection"; and

On page 4, on line 23, before the "." by striking through and placing a bracket after "(3) of this section, this section shall expire" and after the "." by inserting:

"***(5) Notwithstanding any provisions of law or KRS Chapter 13A to the contrary, the emergency administrative regulations filed by the cabinet in February 1994 shall remain in effect until the administrative regulations required by subsection (3) of this section are promulgated.***".

Floor Amendment No. 1 to **HB 630**, by Representative Adams:

On page 3, line 1, by placing an opening bracket before "Effective"; and

on page 3, line 14, by placing a closing bracket after "account.", and by striking through the language between the brackets; and

on page 3, line 15, by deleting "***(8)***".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Economic Development: **SB 346**

Education: **SJR 82, SCR 84**

Labor and Industry: **SB 258**

State Government: **SB 281, SB 287**

Representative Nesler moved that the rules be suspended to allow floor privileges to guests. Agreed.

Report of Committees

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day, March 15, 1994: **SB 73, SB 75, SB 76, SB 77, SB 98, SB 99, SB 159, SB 160, SB 161, SB 167, HB 823, SB 255**

The Committee on Rules reported that **SB 45, SB 119, SB 128, SB 175, SB 242, HB 771, HJR 27, HJR 29, HB 538, HB 680, HB 681, HB 685** and **HCR 84** have been posted for passage in the Orders of the Day for March 15, 1994.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 243, SB 170**

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 300**, with Committee Substitute attached thereto, **HB 301**, with Committee Substitute attached thereto, and **HB 302**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 300** is as follows:

HB 300, AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the government of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted agency fund accounts, or federal funds accounts for the fiscal year beginning July 1, 1994, and ending June 30, 1995, and for the fiscal year beginning July 1, 1995, and ending June 30, 1996, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky.

		1994-95	1995-96
1.	General Assembly		
	General Fund	$6,398,300	$11,723,500
	Restricted Fund	40,000	60,000
	Total	$6,438,300	$11,783,500

The above appropriation to the General Assembly includes funds for the Legislators Retirement Plan in the amount and for the purpose set forth in the plan's budget work papers.

		1994-95	1995-96
2.	Legislative Research Commission		
	General Fund	$15,859,400	$16,587,500
	Restricted Fund	125,000	125,000
	Federal Fund	100	100
	Total	$15,984,500	$16,712,600

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation shall not exceed 261 in 1994-95 and 261 in 1995-96. Within this total, the permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

TOTAL - LEGISLATIVE BRANCH OF STATE GOVERNMENT

OPERATING BUDGET

	1994-95	1995-96
General Fund	$22,257,700	$28,311,000
Restricted Fund	165,000	185,000
Federal Fund	100	100
Total	22,422,800	28,496,100

Any unexpended balance remaining at the close of fiscal year 1993-94 shall not lapse but shall continue into 1994-95 and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

PART II

CAPITAL PROJECTS BUDGET

All funds appropriated in prior years to the Capital Construction Fund for renovation of the Capitol Annex for occupancy by the legislative branch are reauthorized.

	1994-95	1995-96
General Fund	$996,000	$435,000

Included in the above appropriation is $500,000 in fiscal year 1994-95 to be used specifically for renovation of the basement and first floor of the Capitol Annex for committee rooms and staff offices.

Also included in the above appropriation is $496,000 in fiscal year 1994-95 and $435,000 in fiscal year 1995-96 for the implementation of the Legislative Branch Data Processing System.

Funds are appropriated in the capital budget for implementation of the Legislative Branch Data Processing System. The director of the Legislative Research Commission may authorize the transfer of funds to the Legislative Research Commission as necessary to implement this system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly to appropriate amounts for specific purposes for equipment which are not individually identified herein related to the implementation of the data processing system. Any such individual equipment items estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

PART III

GENERAL PROVISIONS

1. The director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. The Legislative Research Commission shall cause the director of the Legislative Research Commission to prepare a final budget document reflecting the 1994-96 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 30 days of the adjournment of the 1994 session of the General Assembly

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Committee Substitute to **HB 301** is as follows:

HB 301, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts or federal funds accounts for the fiscal year beginning July 1, 1994, and ending June 30, 1995, and for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facility fund and for services performed by the Circuit Clerks' offices, including both circuit and district court support:

1. Court of Justice

a. To the Court of Justice, for court operation and administration

	1994-95	1995-96
General Fund	91,985,200	96,456,300
Restricted Funds	143,300	143,300
Federal Funds	17,300	100
Total	92,145,800	96,599,700

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1994-95 and in fiscal year 1995-96 for non-elected court personnel. Notwithstanding the provisions of KRS 64.485 and 64.486 to the contrary, included are funds to provide for a seven percent (7%) salary adjustment for justices and judges in fiscal year 1994-95 and a seven percent (7%) salary adjustment for the justices and judges in fiscal year 1995-96. Also included are funds for the salaries of the circuit clerks in fiscal year 1994-95 and fiscal year 1995-96 as provided for in the judicial branch budget recommendation.

b. To the Court of Justice, for the local facilities fund to compensate local units of government for providing court space pursuant to KRS Chapter 26A; to provide for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and included in the Capital Improvements Plan as provided in KRS Chapter 7A; and to perform all other acts required or authorized by KRS Chapter 26A.

	1994-95	1995-96

General Fund	16,332,300	17,614,200

Total Court of Justice

	1994-95	1995-96
General Fund	108,317,500	114,070,500
Restricted Funds	143,300	143,300
Federal Funds	17,300	100
Total	108,478,100	114,213,900

2. Judicial Form Retirement System

a. To the board of trustees of the Judicial Form Retirement System, for funding and operation of the judicial retirement plan

	1994-95	1995-96
General Fund	3,793,600	3,800,000

Funds are included to provide for the 1993 actuarial assessed needs and a five percent (5%) cost-of-living adjustment effective July 1, 1994, in retirement benefits based on service that terminated prior to July 1, 1994; and a five percent (5%) adjustment effective July 1, 1995 in retirement benefits based on service that terminated prior to July 1, 1995.

Total Judicial Operating Budget

	1994-95	1995-96
General Fund	112,111,100	117,870,500
Restricted Funds	143,300	143,300
Federal Funds	17,300	100
Total	112,271,700	118,013,900

Any unexpended balance remaining in the Court of Justice's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 1994 and June 30, 1995 shall not lapse.

In the event the Court of Justice receives receipts in excess of the amounts appropriated herein, the director of the Administrative Office of the Courts at the direction of the Chief Justice may authorize the credit and expenditure of such restricted funds or federal funds receipts for statutory purposes. The director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

PART II

CAPITAL PROJECTS BUDGET

Funds are appropriated in the capital budget for implementation of the statewide automated court case management and offender-based transaction system. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice operating budget as necessary to implement this system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly to appropriate amounts for specific purposes for equipment items which are not individually identified herein related to the implementation of the statewide automated court case management and offender-based transaction system. Any such individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

State-wide Automated Court Case Management and Offender-based Transaction System

	1994-95	1995-96
General Fund	1,022,600	865,300
Federal Funds	82,700	
Total	1,105,300	865,300

TOTAL JUDICIAL
OPERATING BUDGET/CAPITAL PROJECTS BUDGET

	1994-95	1995-96
General Fund	113,133,700	118,735,800
Restricted Funds	143,300	143,300
Federal Funds	100,000	100
TOTAL - JUDICIAL	113,377,000	118,879,200

PART III

GENERAL PROVISIONS

1. The director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose which the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. In enacting this appropriations Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and specific appropriation and law, and if any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Court of Justice shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other records pertaining thereto.

4. The Chief Justice shall cause the director of the Administrative Office of the Courts to prepare a final budget document reflecting the 1994-96 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1994 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Committee Substitute to **HB 302** is as follows:

HB 302, AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 1994, and for the fiscal year beginning July 1, 1994, and ending June 30, 1995, and for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. GOVERNMENT OPERATIONS

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	1994-95	1995-96
General Fund	3,301,700	3,426,100

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky as specified in KRS 64.710.

b. Governor's Office for Policy and Management

	1994-95	1995-96
General Fund	2,053,300	2,183,700
Restricted Funds	40,000	40,000
Total	2,093,300	2,223,700

c. State Planning Fund

	1994-95	1995-96
General Fund	225,000	225,000

The Governor is hereby authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above appropriation are: a $25,000 grant in each year to be awarded to the Bluegrass State Games to assist with planning and production of the Games; a $10,000 grant to be awarded in fiscal year 1994-95 to assist with planning of the Franklin County bicentennial celebration; and a $25,000 grant in fiscal year 1994-95, to be awarded to the Nature Conservancy for the purpose of producing a photographic document on the Kentucky River. The grant shall be matched by two-to-one ratio, Conservancy funds to grant money; noncash match funds are permitted.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	1994-95	1995-96
General Fund	5,580,000	5,834,800
Restricted Funds	40,000	40,000
TOTAL	5,620,000	5,874,800

2. LIEUTENANT GOVERNOR

	1994-95	1995-96
General Fund	553,300	474,500

Included in the above General Fund appropriation in each year of the biennium is $10,000 for the Lieutenant Governor's expense allowance associated with the position of Lieutenant Governor of Kentucky as specified in KRS 64.710.

3. SECRETARY OF STATE

	1994-95	1995-96
General Fund	1,846,100	1,827,400

All operating receipts from all activities of the Office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

4. BOARD OF ELECTIONS

	1993-94	1994-95	1995-96
General Fund	270,000	4,462,300	3,854,500
Restricted Funds		150,000	136,300
Total	270,000	4,612,300	3,990,800

Included in the above General Fund appropriation is $2,732,300 in each fiscal year to pay the state's share of county election expenses (KRS 117.343) and the state's share of voter registration expenses (KRS 116.145). Also included in the above appropriation is $70,000 in fiscal year 1994-95 for the biennial purgation of voters (KRS 116.112). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 is hereby appropriated, subject to the conditions and procedures provided in this Act.

Special elections and additional precincts due to redistricting or reapportionment shall be deemed necessary governmental expenses and be paid from General Fund surplus. Reimbursements of county clerks (KRS 117.343) shall be deemed necessary governmental expenses and be paid from General Fund surplus in the event of a gubernatorial run-off primary.

5. TREASURY

	1994-95	1995-96
General Fund	1,532,100	1,501,000
Restricted Funds	233,200	223,200
Total	1,765,300	1,724,200

Included in the above General Fund appropriation is $188,000 in fiscal year 1994-95 and $195,000 in fiscal year 1995-96 for the transfer of duties and responsibilities associated with the administration of the Escheats Law (i. e., abandoned properties) from the Revenue Cabinet to the Office of the State Treasurer contingent upon passage of enabling legislation. Four positions and the associated operating costs are included in the amount transferred to the Office of the State Treasurer from the Revenue Cabinet.

6. DEPARTMENT OF LAW

	1994-95	1995-96
General Fund	8,375,000	8,711,400
Restricted Funds	12,446,600	12,517,300
Federal Funds	1,202,500	1,197,600
Total	22,024,100	22,426,300

7. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	1994-95	1995-96

General Fund	12,606,200	13,161,500
Restricted Funds	78,800	79,800
Federal Funds	258,800	270,600
Total	12,943,800	13,511,900

b. County Attorneys

	1994-95	1995-96
General Fund	12,942,400	13,575,100
Restricted Funds	5,100	500
Total	12,947,500	13,575,600

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	1994-95	1995-96
General Fund	25,548,600	26,736,600
Restricted Funds	83,900	80,300
Federal Funds	258,800	270,600
TOTAL	25,891,300	27,087,500

8. AUDITOR OF PUBLIC ACCOUNTS

	1994-95	1995-96
General Fund	3,671,600	4,197,000
Restricted Funds	3,015,500	2,779,400
Total	6,687,100	6,976,400

There is hereby appropriated to the Auditor of Public Accounts funds which are required in the auditing of federal disaster relief funds, subject to the conditions and procedures provided in this Act.

Notwithstanding the provisions of KRS 43.200, no funding is provided for Auditor's scholarships.

9. DEPARTMENT OF AGRICULTURE

	1994-95	1995-96
General Fund	12,267,800	12,892,000
Restricted Funds	2,089,200	2,042,900
Federal Funds	1,194,200	1,205,900
Total	15,551,200	16,140,800

Included in the restricted funds appropriation above is $394,700 in fiscal year 1994-95 and $355,900 in fiscal year 1995-96 for initiation of the motor fuels testing program contingent upon passage of enabling legislation.

Also included in the restricted funds appropriation above is $850,500 in each year for an environmental education program contingent upon passage of enabling legislation.

Included in the General Fund appropriation above is $289,000 in fiscal year 1995-96 for debt service for the Northern Kentucky Farmers Market.

10. DEPARTMENT OF MILITARY AFFAIRS

a. General Operations

	1994-95	1995-96
General Fund	7,611,200	8,091,600
Restricted Funds	4,810,100	5,890,500
Federal Funds	1,698,700	780,700
Total	14,120,000	14,762,800

Included in the above General Fund appropriation is $393,400 in fiscal year 1994-95 and $424,400 in fiscal year 1995-96 for the operation and support of the Lexington Bluegrass Army Depot contingent upon the authorization of Economic Development Bonds. If the Economic Development Bonds are not provided, the General Fund moneys are appropriated to the Area Development Fund.

There is hereby appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty; provided, however, that an emergency or exigent situation shall have been declared to exist by the Governor.

There is hereby appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency.

b. Disaster and Emergency Services

	1994-95	1995-96
General Fund	2,483,100	2,572,300
Restricted Funds	576,300	588,700
Federal Funds	8,254,200	9,128,900
Total	11,313,600	12,289,900

There is hereby appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency.

TOTAL - DEPARTMENT OF MILITARY AFFAIRS

	1994-95	1995-96
General Fund	10,094,300	10,663,900
Restricted Funds	5,386,400	6,479,200
Federal Funds	9,952,900	9,909,600
Total	25,433,600	27,052,700

11. DEPARTMENT OF PERSONNEL

a. General Operations

	1994-95	1995-96
General Fund	4,086,700	4,262,400
Restricted Funds	2,234,700	2,227,300
Total	6,321,400	6,489,700

b. Workers' Compensation Benefits and Reserve

	1994-95	1995-96
Restricted Funds	13,981,200	15,325,100

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, it is the intent of the General Assembly that the necessary funds are hereby appropriated, subject to the conditions and procedures provided in this Act.

c. Public Employees Deferred Compensation System

	1994-95	1995-96
Restricted Funds	602,600	617,300

TOTAL - DEPARTMENT OF PERSONNEL

	1994-95	1995-96
General Fund	4,086,700	4,262,400
Restricted Funds	16,818,500	18,169,700
TOTAL	20,905,200	22,432,100

12. PERSONNEL BOARD

	1994-95	1995-96
General Fund	457,000	455,100

13. DEPARTMENT OF LOCAL GOVERNMENT

	1993-94	1994-95	1995-96
General Fund	10,000	6,171,700	6,173,400
Restricted Funds		1,405,800	1,405,800
Federal Funds	5,966,800	37,032,400	36,957,400
Total	5,976,800	44,609,900	44,536,600

Included in the above General Fund appropriation is $50,000 in each year for the grant and technical assistance program for local and regional river resources and associated watershed, streams, and riparian areas.

Included in the General Fund appropriations above are $25,000 additional in each year of the biennium for local government officials training specifically addressing ethics issues and an additional $25,000 in each year of the biennium for the Kentucky Local Government Law Center to expand its assistance to local government specifically on ethics issues.

Included in the General Fund appropriations above are $144,500 in fiscal year 1994-95 and $150,900 in fiscal year 1995-96 for the Flood Control Advisory Commission.

Included in the General Fund appropriation above is $50,000 in fiscal year 1994-95 and $433,000 in fiscal year 1995-96 for debt service for the Local Match Participation Program for statewide flood control projects.

Included in the above General Fund appropriation is $500,000 in fiscal year 1994-95 for the Local Government Public Parks and Recreation Grant Program and the remaining balance at the end of the fiscal year shall be carried forward into fiscal year 1995-96.

14. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	1994-95	1995-96
General Fund	31,653,300	32,029,500

b. Local Government Economic Development Fund

	1994-95	1995-96
General Fund	15,093,900	22,074,200

The above appropriations from the General Fund are based on the official estimate of the Secretary of Finance and Administration for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of twenty-one (21%) percent effective July 1, 1994, and twenty-five (25%) percent effective July 1, 1995, notwithstanding provisions set forth in KRS 42.4582. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified herein and otherwise in accordance with KRS 42.450 to 42.495.

c. Area Development Fund

	1993-94	1994-95	1995-96
General Fund	4,750,000	4,500,000	4,500,000

TOTAL - SPECIAL FUNDS

	1993-94	1994-95	1995-96
General Fund	4,750,000	51,247,200	58,603,700

15. COMMISSION ON HUMAN RIGHTS

	1994-95	1995-96
General Fund	1,665,700	1,731,400
Restricted Funds	51,200	51,100
Federal Funds	52,200	52,200
Total	1,769,100	1,834,700

Included in the above General Fund appropriation is $100,000 in fiscal year 1994-95 and $100,000 in fiscal year 1995-96 to support a Northern Kentucky field office.

16. COMMISSION ON WOMEN

	1994-95	1995-96
General Fund	166,500	170,200
Restricted Funds	4,000	
Total	170,500	170,200

Included in the above General Fund appropriation is $5,400 in fiscal year 1994-95 to host a regional meeting in preparation for the 1995 United Nations Fourth World Conference on Women, and $1,000 in fiscal year 1994-95 for equipment maintenance.

17. KENTUCKY RETIREMENT SYSTEMS

	1994-95	1995-96
General Fund	526,200	526,200
Restricted Funds	10,407,300	10,968,800
Total	10,933,500	11,495,000

18. REGISTRY OF ELECTION FINANCE

	1994-95	1995-96
General Fund	1,266,700	1,297,800

Restricted Funds	252,800	118,300
Total	1,519,500	1,416,100

General Fund surplus dollars in an amount not to exceed $8,150,000 in fiscal year 1994-95 and $3,600,000 in fiscal year 1995-96 shall be made available for campaign finance reform.

19. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	1994-95	1995-96
Restricted Funds	441,100	484,100

b. Board of Architects

	1994-95	1995-96
Restricted Funds	109,800	111,200

c. Athletic Commission

	1994-95	1995-96
Restricted Funds	61,300	63,600

d. Board of Auctioneers

	1994-95	1995-96
Restricted Funds	250,300	257,400

e. Board of Barbers

	1993-94	1994-95	1995-96
Restricted Funds	13,000	154,900	160,400

Notwithstanding KRS 317.450, the Kentucky Board of Barbering is directed to increase the licensing and renewal fees to provide for the budgeted expenditure level.

f. Board of Chiropractic Examiners

	1994-95	1995-96
Restricted Funds	112,800	117,900

g. Board of Dental Examiners

	1993-94	1994-95	1995-96
Restricted Funds	12,000	272,500	267,200

h. Board of Dietitians and Nutritionists

	1994-95	1995-96
Restricted Funds	11,300	11,700

i. Board of Embalmers and Funeral Directors

	1994-95	1995-96
Restricted Funds	155,800	161,300

j. Board of Engineers and Land Surveyors

	1994-95	1995-96
Restricted Funds	703,500	572,400

k. Board of Geologists

	1994-95	1995-96
Restricted Funds	74,000	68,000

l. Board of Hairdressers & Cosmetologists

	1993-94	1994-95	1995-96
Restricted Funds	47,100	581,000	578,100

m. Board of Hearing Aid Dealers

	1994-95	1995-96
Restricted Funds	24,100	25,300

n. Board of Landscape Architecture

	1994-95	1995-96
Restricted Funds	29,300	29,900

o. Board of Medical Licensure

	1994-95	1995-96
Restricted Funds	1,044,400	1,080,800

p. Board of Nurses

	1994-95	1995-96
Restricted Funds	1,719,600	1,792,600

Included in the above appropriation is $133,800 in fiscal year 1994-95 and $146,400 in fiscal year 1995-96 for the Nursing Incentive Scholarship Program.

q. Nursing Home Administrators Licensure Board

	1994-95	1995-96
Restricted Funds	48,300	50,400

r. Board of Occupational Therapy

	1994-95	1995-96
Restricted Funds	17,200	18,000

s. Board of Ophthalmic Dispensers

	1994-95	1995-96
Restricted Funds	8,200	8,500

t. Board of Optometric Examiners

	1994-95	1995-96
Restricted Funds	72,500	74,300

u. Board of Pharmacy

	1994-95	1995-96
Restricted Funds	483,600	491,600

v. Board of Physical Therapy

	1994-95	1995-96
Restricted Funds	130,600	150,800

w. Board of Podiatry

	1994-95	1995-96
Restricted Funds	9,300	9,300

x. Board of Psychology

	1994-95	1995-96
Restricted Funds	77,100	80,800

y. Real Estate Appraisers Board

	1993-94	1994-95	1995-96
Restricted Funds	62,000	365,500	274,300

z. Real Estate Commission

Restricted Funds		1994-95	1995-96
1. Operations		920,000	951,200
2. Real Estate Education and Recovery	683,800	693,000	
Total		1,603,800	1,644,200

aa. Board of Respiratory Care

	1994-95	1995-96
Restricted Funds	63,200	66,200

ab. Board of Social Workers

	1994-95	1995-96
Restricted Funds	87,000	90,000

ac. Board of Speech Pathologists and Audiologists

	1994-95	1995-96
Restricted Funds	34,400	36,100

ad. Board of Veterinary Examiners

	1994-95	1995-96
Restricted Funds	72,400	74,700

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	1993-94	1994-95	1995-96
Restricted Funds	134,100	8,818,800	8,851,100

20. GOVERNMENTAL SERVICES CENTER

	1994-95	1995-96
Restricted Funds	1,233,000	1,278,000

21. CAPITAL PLAZA AUTHORITY

	1994-95	1995-96
General Fund	58,000	59,000
Restricted Funds	481,000	494,000
Total	539,000	553,000

22. EXECUTIVE BRANCH ETHICS COMMISSION

	1994-95	1995-96
General Fund	198,400	207,100

23. GENERAL OBLIGATION BONDS

a. 1965 General Purpose Bonds

	1994-95	1995-96
General Fund	2,054,000	

24. MISCELLANEOUS APPROPRIATIONS

a. Board of Claims Awards

	1994-95	1995-96
General Fund	300,000	300,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund.

However, awards under $500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of such agencies.

b. Judgments

	1994-95	1995-96
General Fund	2,000,000	2,000,000

For payment from the General Fund of the judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; the payments, where applicable, shall be subject to the provisions of KRS Chapter 45, and also, to pay medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892.

c. Guardian Ad Litem

	1994-95	1995-96
General Fund	1,300,000	1,300,000

d. Prior Year Claims

	1994-95	1995-96
General Fund	400,000	400,000

e. Unredeemed Checks Refunded

	1994-95	1995-96
General Fund	300,000	300,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Blanket Employees Bonds

	1994-95	1995-96

General Fund	125,000

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

g. Frankfort Cemetery

	1994-95	1995-96
General Fund	2,500	2,500

h. Police and Firemen–Life Insurance

	1994-95	1995-96
General Fund	300,000	300,000

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

i. Workers' Compensation

	1994-95	1995-96
General Fund	225,000	225,000

For workers' compensation premiums for fee officers in counties over 75,000 in population.

j. Master Commissioners–Employees Retirement

	1994-95	1995-96
General Fund	142,000	148,000

k. Master Commissioners–Social Security

	1994-95	1995-96
General Fund	175,000	190,000

l. Involuntary Commitments ICF/MR

	1994-95	1995-96
General Fund	20,000	20,000

m. Frankfort in Lieu of Taxes

	1994-95	1995-96
General Fund	195,000	195,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	1994-95	1995-96
General Fund	5,484,500	5,380,500

Included in the above appropriations is $0 in fiscal year 1994-95 and $0 in fiscal year 1995-96 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are hereby appropriated, and any required expenditure over the above amounts is to be paid from the General Fund Surplus Account, subject to the conditions and procedures provided in this Act.

25. PROPERTY VALUATION ADMINISTRATORS

	1994-95	1995-96
General Fund	16,984,200	17,954,300
Restricted Funds	2,063,000	2,048,500
Total	19,047,200	20,002,800

No additional General Fund appropriation is included for the Emergency Assessment Program, which is scheduled to be completed June 30, 1994.

26. VETERANS' NURSING HOME ADVISORY COMMISSION

	1994-95	1995-96
General Fund	3,629,400	7,281,200
Restricted Funds	9,991,000	7,033,000
Total	13,620,400	14,314,200

Notwithstanding KRS 36.355, the Veterans' Nursing Home will be transferred to the Veterans' Nursing Home Advisory Commission which will be attached to the Finance and Administration Cabinet for administrative purposes immediately upon the effective date of this Act.

Included in the above General Fund appropriation is $226,000 in each year of the biennium for debt service for the Veterans' Nursing Home at the Wilmore site.

TOTAL - GOVERNMENT OPERATIONS

	1993-94	1994-95	1995-96
General Fund	5,030,000	167,927,300	180,795,400
Restricted Funds	134,100	74,971,200	74,716,900
Federal Funds	5,966,800	49,693,000	49,593,300
TOTAL	11,130,900	292,591,500	305,105,600

B. ECONOMIC DEVELOPMENT

27. ECONOMIC DEVELOPMENT

a. Office of the Secretary

	1994-95	1995-96
General Fund	2,473,900	2,460,600

Included in the General Fund appropriation above is $400,000 for the East Kentucky Jobs Creation Corporation and $100,000 for the West Kentucky Jobs Creation Corporation each fiscal year of the biennium. Both Corporations are required to submit a quarterly financial and status report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue.

There is hereby appropriated $400,000 in General Fund dollars for the Coal Marketing and Export Council for the purpose of public education of coal-related issues, contingent upon passage of enabling legislation.

b. Department of Financial Incentives

	1994-95	1995-96
General Fund	54,623,900	58,855,700
Restricted Funds	1,529,900	1,529,100
Total	56,153,800	60,384,800

Included in the General Fund appropriation above is $41,065,000 in fiscal year 1994-95 and $41,163,000 in fiscal year 1995-96 for debt service payments on the Economic Development Bond Program for previously appropriated bond issues. Included as a part of the debt service amounts is $3,364,000 in fiscal year 1994-95 and $3,363,000 in fiscal year 1995-96 for the lease rental payments associated with the $36,600,000 Economic Development Road Bond issue of the Kentucky Turnpike Authority. The Secretary of Transportation shall certify to the Secretary of Economic Development the actual amount required to meet the lease rental payment. Included as a part of the debt service figures is $6,246,000 in fiscal year 1994-95 and $6,262,000 in fiscal year 1995-96 for debt service payments on the Kentucky Development Finance Authority previously appropriated bond issues.

Included in the General Fund appropriation is $4,091,000 in fiscal year 1995-96 for the debt service payments associated with the new economic development bond appropriation identified in Part II.

The General Fund appropriation for fiscal year 1993-94 and succeeding fiscal years for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund.

Notwithstanding the provisions of KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

It is the intent of the General Assembly that commencing on December 30, 1994, and every six (6) months thereafter, that balances remaining in the Special Revenue Funds account be lapsed to the General Fund Surplus Account. This process will continue through the 1994-96 biennium.

Bluegrass State Skills Corporation: The Corporation is to submit a quarterly financial report to the Governor's Office for Policy and Management and to the Interim Joint Committee on Appropriations and Revenue. There is appropriated in fiscal year 1993-94 $729,000 in restricted funds to the Bluegrass State Skills Corporation. These dollars shall be continued and not lapse at the end of fiscal year 1993-94 and shall be appropriated for expenditure in fiscal year 1994-95. Any balance remaining at the end of fiscal year 1994-95 shall not lapse and shall be appropriated for expenditure in fiscal year 1995-96. The source of revenue is the modification and amendment to the 1987 Tax Investment Agreement between Louisville/Jefferson County and the Commonwealth of Kentucky.

c. Department of Job Development

	1994-95	1995-96
General Fund	1,762,000	1,798,500

d. Department of Community Development

	1993-94	1994-95	1995-96
General Fund	250,000	2,730,400	3,047,800
Restricted Funds		143,100	148,900
Federal Funds	250,000	402,200	658,900
Total	500,000	3,275,700	3,855,600

The 1993-94 continuing General Fund appropriation of $250,000 shall be continued into fiscal year 1994-95 to meet the Commonwealth's commitment for the financial assistance program to preserve existing jobs and prevent unemployment and any balance remaining shall also be continued into fiscal year 1995-96 and not lapse to the credit of the General Fund.

Included in the General Fund appropriation is $250,000 each year of the biennium for the Flexible Manufacturing Networks concepts. The Cabinet shall provide a quarterly report of the Networking Program to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue.

Included in the above appropriation is $250,000 General Fund dollars and $250,000 federal funds in fiscal years 1993-94 and 1994-95, and $500,000 General Fund dollars and $500,000 federal funds in fiscal year 1995-96 to establish the Kentucky Technology Service Grant Program.

e. Department of Administration and Support

	1994-95	1995-96
General Fund	1,544,400	1,597,000
Restricted Funds	303,000	303,000
Total	1,847,400	1,900,000

TOTAL - ECONOMIC DEVELOPMENT

	1993-94	1994-95	1995-96
General Fund	250,000	63,134,600	67,759,600
Restricted Funds		1,976,000	1,981,000
Federal Funds	250,000	402,200	658,900
TOTAL	500,000	65,512,800	70,399,500

C. DEPARTMENT OF EDUCATION

28. DEPARTMENT OF EDUCATION

a. Support Education Excellence in Kentucky (SEEK)

	1994-95	1995-96
General Fund	1,868,284,100	1,921,492,800

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the Support Education Excellence in Kentucky program.

The above appropriations include $1,528,590,100 in fiscal year 1994-95 and $1,572,774,200 in fiscal year 1995-96 for the base SEEK program as defined by KRS 157.360; these appropriations are intended to provide a base guarantee of $2,495 per student in average daily attendance in fiscal year 1994-95 and $2,570 per student in average daily attendance in fiscal year 1995-96 as well as to meet the other requirements of KRS 157.360, notwithstanding the provisions of KRS 157.360(2)(c).

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included within the above appropriation for the Support Education Excellence in Kentucky program is $92,726,800 in fiscal year 1994-95 and $91,912,500 in fiscal year 1995-96 for the Tier I component as established by KRS 157.440. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430. If either the base SEEK program appropriations or the Tier I component appropriations in either year of the 1994-96 biennium fall short of the amounts intended under the provisions of KRS 157.310 to 157.430, KRS 157.440, or any other provision of this Act, any surplus funds from the base SEEK program or from the Tier I component may be transferred to the respective appropriation experiencing the shortfall. Such a transfer shall require the approval of the Governor upon the written recommendation of the Secretary of Finance and Administration and written request of the Commissioner of the Department of Education.

The following is the minimum statewide salary schedule for fiscal year 1994-95.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810

4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810
20 years and over	32,760	30,110	27,450	17,150	15,810

The following is the minimum statewide salary schedule for fiscal year 1995-96.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810
4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810
20 years and over	32,760	30,110	27,450	17,150	15,810

No working budget or salary schedule shall be approved in which the salary paid any teacher is not at least equivalent to the allotment for that rank and experience, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board for Elementary and Secondary Education shall certify such contention to the Revenue Cabinet. The cabinet shall then determine whether there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Revenue Cabinet shall then certify its determination to the State Board for Elementary and Secondary Education, and the board shall accept such certified determination as final.

The State Board for Elementary and Secondary Education shall not approve any working budgets or salary schedule summaries for local boards of education for the school years 1994-95 and 1995-96 in which the total amount for 185 days on the salary schedule summary for teachers' instructional salaries is not equal to the amount for 185 days on the salary schedule summary for teachers' instructional salaries in the preceding year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the chief state school officer. The State Board for Elementary and Secondary Education may promulgate administrative regulations for the housing of school children. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than 185 days in accordance with KRS 158.070, or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the chief state school officer.

Any undistributed balance in the Support Education Excellence in Kentucky fund at the end of either fiscal year 1994-95 or fiscal year 1995-96 shall lapse to the credit of the General Fund Surplus Account.

The total appropriation for the Support Education Excellence in Kentucky program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et seq. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the herein above cited sections of the Kentucky Revised Statutes; provided, however, that any such increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48.

Included within the above appropriation is $2,083,600 in fiscal year 1994-95 and $2,083,600 in fiscal year 1995-96 for Vocational Transportation. Included within the above appropriation is $16,000,000 in fiscal year 1994-95 and $16,500,000 in fiscal year 1995-96 to provide secondary vocational education in state-operated vocational schools.

Included within the above appropriation is $15,400,000 in fiscal year 1994-95 and $15,300,000 in fiscal year 1995-96 to provide facilities equalization funding under the provisions of KRS 157.620. If these appropriations are insufficient to meet the requirements of KRS 157.620, allotments to eligible school districts may be reduced on a pro rata basis.

Included within the above appropriation is $202,000,000 in fiscal year 1994-95 and $208,000,000 in fiscal year 1995-96 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

b. Executive Policy and Management

	1994-95	1995-96
General Fund	1,736,700	1,794,300
Restricted Funds	418,600	432,200
Federal Funds	145,200	145,200

Total	2,300,500	2,371,700

c. Chief of Staff

	1994-95	1995-96
General Fund	23,253,300	23,310,400
Restricted Funds	395,400	394,100
Total	23,648,700	23,704,500

Included within the above General Fund appropriation is $20,000,000 in fiscal year 1994-95 and $20,000,000 in fiscal year 1995-96 for the education technology escrow account. Notwithstanding any contrary statutory provisions, this account is to be established within the Finance and Administration Cabinet. Interest earnings from the Education Technology Escrow Account shall accrue to the credit of the account. The Secretary of Finance and Administration is authorized to transfer an amount not to exceed $40,000 in fiscal year 1994-95 and $40,000 in fiscal year 1995-96 to the School Facilities Construction Commission for the Education Technology Escrow Account for activities associated with implementation of the Education Technology Program, specifically the State/Local District Matching Program. The Secretary of Finance and Administration is also authorized to transfer and utilize an amount from the Education Technology Escrow Account not to exceed $185,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96 to assist the Secretary in oversight and related activities regarding the implementation of the Education Technology Program.

d. Management Support Services

	1994-95	1995-96
General Fund	180,408,800	195,456,000
Restricted Funds	1,456,500	1,497,800
Federal Funds	127,454,200	129,797,400
Total	309,319,500	326,751,200

Included in the above General Fund appropriation is $400,000 in fiscal year 1994-95 and $420,000 in fiscal year 1995-96 for the Gifted and Talented Program. The Commissioner of Education is authorized to transfer these funds to the Learning Support Services budget unit to provide for this increased appropriation.

Included in the above General Fund appropriation is $5,273,800 in fiscal year 1994-95 and $5,645,900 in fiscal year 1995-96 for reimbursement to local school districts for the Out-of-District Children Program operated in accordance with KRS 158.135 and applicable administrative regulations. Funds to be expended for the Out-of-District Children Program shall be limited to these amounts and if sufficient funds are not available within these allocated amounts to reimburse each district for the total allowed cost of the program, each allocation shall be ratably reduced to the level of available funds.

Included in the above General Fund appropriation is: $241,000 in fiscal year 1994-95 and $241,000 in fiscal year 1995-96 for debt service for the Kentucky School for the Blind dormitory; $322,000 in fiscal year 1994-95 and $319,000 in fiscal year 1995-96 for debt service for Project 33/Kentucky School for the Blind; and $174,000 in fiscal year 1994-95 and $175,000 in fiscal year 1995-96 for debt service for the FFA Leadership Center.

Included in the above General Fund Appropriation is $162,125,100 in fiscal year 1994-95 and $176,491,100 in fiscal year 1995-96 to provide health and life insurance coverage for employees of local school districts. If the costs for life insurance or health insurance exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset such unbudgeted costs, subject to the approval of the Secretary of the Finance and Administration Cabinet.

If the appropriations for either the Local School District Teachers' Retirement Employer Match or the Local District Health and Life Insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Such a transfer shall be subject to the written approval of the Secretary of the Finance and Administration Cabinet upon written request of the Commissioner of the Department of Education.

e. Learning Results Services

	1994-95	1995-96
General Fund	47,969,100	64,297,400
Restricted Funds	809,800	821,000
Federal Funds	2,551,600	2,547,700
Total	51,330,500	67,666,100

Included within the above General Fund appropriation is $10,000,000 in fiscal year 1995-96 for the School Rewards Escrow Account. Included in the above General Fund appropriation is at least $4,239,500 in fiscal year 1994-1995 and at least $4,356,000 in fiscal year 1995-96 for the Kentucky School for the Blind and at least $7,179,900 in fiscal year 1994-95 and at least $7,362,500 in fiscal year 1995-96 for the Kentucky School for the Deaf.

f. Learning Support Services

	1993-94	1994-95	1995-96

General Fund	95,000	136,759,800	145,387,000
Restricted Funds		1,243,100	1,256,300
Federal Funds		189,053,500	189,235,400
Total	95,000	327,056,400	335,878,700

The above General Fund appropriation includes $31,158,600 in fiscal year 1994-95 and $36,161,300 in fiscal year 1995-96 for Family Resource and Youth Services Centers. Funds herein appropriated to establish Family Resource and Youth Services Centers shall be transferred in fiscal year 1994-95 and in fiscal year 1995-96 to the Cabinet for Human Resources consistent with the intent of KRS 156.497.

Included within the above General Fund appropriation is $250,000 in fiscal year 1994-95 and $600,000 in fiscal year 1995-96 for the Minority Teacher Recruitment Program. The above amounts are to be supplemented by $400,000 in fiscal year 1994-95 and $400,000 in fiscal year 1995-96 from other appropriations within the Learning Support Services budget unit.

TOTAL - DEPARTMENT OF EDUCATION

	1993-94	1994-95	1995-96
General Fund	95,000	2,258,411,800	2,351,737,900
Restricted Funds		4,323,400	4,401,400
Federal Funds		319,204,500	321,725,700
TOTAL	95,000	2,581,939,700	2,677,865,000

D. EDUCATION, ARTS AND HUMANITIES

29. OFFICE OF THE SECRETARY

	1994-95	1995-96
General Fund	4,758,400	4,937,600
Restricted Funds	257,800	214,500
Federal Funds	777,800	761,500
Total	5,794,000	5,913,600

Included in the above General Fund appropriation is $3,242,100 in fiscal year 1994-95 and $3,358,100 in fiscal year 1995-96 for the Kentucky Arts Council.

Also included in the above General Fund appropriation is $973,300 in fiscal year 1994-95 and $979,700 in fiscal year 1995-96 for the Governor's Scholars program.

Also included in the above appropriation is $250,000 in each fiscal year for the Governor's School for the Arts.

30. KENTUCKY EDUCATIONAL TELEVISION

	1994-95	1995-96
General Fund	14,684,900	15,123,300
Restricted Funds	1,533,800	1,195,800
Federal Funds	200,000	
Total	16,418,700	16,319,100

Included in the above General Fund appropriation is $2,531,000 in fiscal year 1994-95 and $2,523,000 in fiscal year 1995-96 for debt service.

31. HISTORICAL SOCIETY

	1994-95	1995-96
General Fund	2,162,100	3,191,500
Restricted Funds	315,500	319,200
Total	2,477,600	3,510,700

Included in the above General Fund appropriation is $194,000 in fiscal year 1994-95 and $194,000 in fiscal year 1995-96 for debt service on a previously authorized portion of the History Center project that included site acquisition/preparation and design/planning.

Also included in the above General Fund appropriation is $949,300 in fiscal year 1996 for debt service on the construction portion of the History Center project.

32. LIBRARIES AND ARCHIVES

a. General Operations

	1994-95	1995-96
General Fund	7,141,800	7,360,700

Restricted Funds	1,087,100	1,114,200
Federal Funds	1,299,600	1,315,500
Total	9,528,500	9,790,400

Included in the above General Fund appropriation is $1,387,000 in fiscal year 1994-95 and $1,387,000 in fiscal year 1995-96 for debt service.

b. Direct Local Aid

	1994-95	1995-96
General Fund	5,326,200	5,326,600
Restricted Funds	17,800	5,000
Federal Funds	1,075,800	1,075,800
Total	6,419,800	6,407,400

Included in the above General Fund appropriation is $1,021,500 in both fiscal years for the State Aid Base Grant to Local Libraries.

TOTAL - LIBRARIES AND ARCHIVES

	1994-95	1995-96
General Fund	12,468,000	12,687,300
Restricted Funds	1,104,900	1,119,200
Federal Funds	2,375,400	2,391,300
Total	15,948,300	16,197,800

33. TEACHERS' RETIREMENT SYSTEM

	1994-95	1995-96
General Fund	64,871,300	61,829,200
Restricted Funds	3,293,000	3,425,100
Total	68,164,300	65,254,300

General funds are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.553.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.553. If these combined General Fund appropriations are in excess of these requirements, such excess funds shall lapse to the credit of the General Fund.

Of the above appropriations, $10,000,000 in fiscal year 1994-95 and $10,000,000 in fiscal year 1995-96 is to be specifically directed to the system's medical insurance fund, with any amounts not required to meet current needs to be maintained as a reserve against future claims.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund dollars are provided in fiscal year 1994-95 or fiscal year 1995-96 for the cost of administration.

34. HERITAGE COUNCIL

	1994-95	1995-96
General Fund	1,165,000	711,300
Restricted Funds	58,100	76,300
Federal Funds	792,200	792,200
Total	2,015,300	1,579,800

35. COMMISSION ON THE DEAF AND HARD OF HEARING

	1994-95	1995-96
General Fund	262,900	274,000

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	1994-95	1995-96
General Fund	57,065,400	58,495,600

No facility designated as a replacement project for a functional center as defined by KRS 157.420 shall be included on a school district's facility survey as an unmet need. If a replacement project for a functional center is designated as an unmet need on the facility survey, that functional center shall become a transitional center.

Notwithstanding KRS 157.622(5), local school districts may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed six (6) years.

Notwithstanding the provisions of 1992 Ky. Acts ch. 462, Part III, sec. 9., and Part IX, sec. 12., as enacted by the 1992 Regular Session of the General Assembly, the continuing appropriation to the School Facilities Construction Commission in fiscal year 1993-94 shall not be reallocated by the Commission, and shall lapse to the credit of the General Fund as of June 30, 1994.

37. KENTUCKY CENTER FOR THE ARTS

	1994-95	1995-96
General Fund	3,393,600	3,401,400

Included in the above General Fund appropriation is $2,769,000 in fiscal year 1994-95 and $2,776,000 in fiscal year 1995-96 for debt service.

TOTAL - EDUCATION, ARTS AND HUMANITIES

	1994-95	1995-96
General Fund	160,831,600	160,651,200
Restricted Funds	6,563,100	6,350,100
Federal Funds	4,145,400	3,945,000
TOTAL	171,540,100	170,946,300

E. FINANCE AND ADMINISTRATION CABINET

38. FINANCE AND ADMINISTRATION CABINET

a. General Administration

	1994-95	1995-96
General Fund	24,383,000	27,983,600
Restricted Funds	2,651,200	2,123,700
Federal Funds	81,870,100	40,073,600
Road Fund		125,000
Total	108,904,300	70,305,900

Included in the above General Fund appropriation is $265,500 in fiscal year 1994-95 and $1,480,000 in fiscal year 1995-96 for new debt service for facilities administered by the Finance Cabinet. Also included is $6,606,000 in fiscal year 1994-95 and $6,573,000 in fiscal year 1995-96 for previously authorized bonds.

Also included in the above General Fund appropriation is $952,700 in fiscal year 1995-96 for new debt service for the Kentucky Infrastructure Authority. Also included is $10,394,000 in fiscal year 1994-95 and $10,680,700 in fiscal year 1995-96 for debt service on previously authorized bonds in the Kentucky Infrastructure Authority.

Included in the above General Fund appropriation is $200,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96, and included in the above restricted funds appropriation from the Kentucky Housing Corporation Housing Assistance Fund is $200,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96 to be transferred to the Affordable Housing Trust Fund.

b. Department for Administration

	1994-95	1995-96
General Fund	3,107,500	3,318,500
Restricted Funds	14,905,500	14,915,500
Road Fund	237,000	246,000
Total	18,250,000	18,480,000

c. Department for Facilities Management

	1994-95	1995-96
General Fund	7,795,200	8,034,200
Restricted Funds	24,651,400	25,330,400
Total	32,446,600	33,364,600

There is hereby appropriated $130,600 in fiscal year 1994-95 and $134,600 in fiscal year 1995-96 from the General Fund to begin energy conservation in state buildings, contingent upon the passage of enabling legislation.

d. Department of Information Systems

	1994-95	1995-96
Restricted Funds	33,246,600	34,722,800

e. County Fees

	1993-94	1994-95	1995-96
Restricted Funds	1,906,000	37,091,900	38,423,200

f. County Costs

	1994-95	1995-96
General Fund	13,926,000	13,946,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 1994-95 and $5,431,000 in fiscal year 1995-96 for base court revenue.

Funds required to pay county costs other than base court revenue funded by the General Fund are hereby appropriated and additional funds may be allotted from the General Fund Surplus Account by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

TOTAL - FINANCE AND ADMINISTRATION

	1994-95	1995-96
General Fund	49,211,700	53,282,300
Restricted Funds	112,546,600	115,515,600
Federal Funds	81,870,100	40,073,600
Road Fund	237,000	371,000
TOTAL	243,865,400	209,242,500

F. HIGHER EDUCATION

39. COUNCIL ON HIGHER EDUCATION

	1994-95	1995-96
General Fund	8,603,000	10,123,100
Federal Funds	4,147,200	4,057,200
Total	12,750,200	14,180,300

Included in the above General Fund appropriation is $1,424,800 for debt service in fiscal year 1995-96 which will provide a $15,000,000 pool for Life Safety projects on the university campuses. Specific projects will be recommended by the Council on Higher Education to the Secretary of the Finance and Administration Cabinet for approval from the list of projects previously identified and recommended by the Council for funding from state General Fund support in the 1994-96 biennium.

Included in the above General Fund appropriation is $2,227,100 in fiscal year 1994-95 and $2,000,000 in fiscal year 1995-96 to be used for matching federal funds received for EPSCoR or EPSCoR type programs designed to enhance Kentucky's basic science and engineering infrastructure.

40. HIGHER EDUCATION ASSISTANCE AUTHORITY

	1994-95	1995-96
General Fund	26,058,100	27,168,600
Restricted Funds	8,948,300	9,145,600
Federal Funds	1,117,000	1,117,000
Total	36,123,400	37,431,200

Included in the above General Fund appropriation is $17,049,200 in fiscal year 1994-95 and $18,159,700 in fiscal year 1995-96 for College Access Program (CAP) grants. Notwithstanding KRS 164.753(4)(d), the Authority shall ensure by rules and regulations that CAP grants are available, to the extent of the foregoing appropriations, to assist financially needy part-time and full-time undergraduate students, provided that CAP grants shall not exceed the full-time tuition amount of a publicly supported community college in Kentucky. Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match federal funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally funded student financial assistance programs.

The General Fund dollars appropriation herein shall be used solely for the purpose of making awards to students.

Any General Fund appropriations unexpended in fiscal years 1993-94 or 1994-95 to the Kentucky Higher Education Assistance Authority shall not lapse but shall be carried forward into the next fiscal year.

Included in the above Restricted Funds appropriation is $100,000 in each fiscal year for Teachers' Scholarships and $550,000 in each fiscal year for the Kentucky Tuition Grants program. Also included in the Restricted Funds appropriation is $1,000,000 each year for the College Work Study Program.

Notwithstanding the provisions of KRS 164.770, service at any school certified pursuant to KRS 156.160(3) qualifies a grantee/loan holder for credit toward loan repayment in the Teacher's Scholarship Program (11 KAR 8:030).

41. EASTERN KENTUCKY UNIVERSITY

	1994-95	1995-96
General Fund	54,219,000	55,965,100
Restricted Funds	74,071,900	77,069,400
Federal Funds	15,026,500	15,070,400
Total	143,317,400	148,104,900

Included in the above General Fund appropriation is $5,820,600 in fiscal year 1994-95 and $6,126,400 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $1,440,300 in fiscal year 1995-96 for performance funding.

42. KENTUCKY STATE UNIVERSITY

	1994-95	1995-96
General Fund	18,499,100	18,957,800
Restricted Funds	10,539,000	11,020,500
Federal Funds	8,943,500	9,267,000
Total	37,981,600	39,245,300

Included in the above General Fund appropriation is $2,573,000 in fiscal year 1994-95 and $2,553,900 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $477,800 in fiscal year 1995-96 for performance funding.

43. MOREHEAD STATE UNIVERSITY

	1994-95	1995-96
General Fund	32,362,500	33,904,500
Restricted Funds	37,003,600	38,218,600
Federal Funds	10,653,500	10,646,400
Total	80,019,600	82,769,500

Included in the above General Fund appropriation is $3,762,000 in fiscal year 1994-95 and $4,446,000 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $858,000 in fiscal year 1995-96 for performance funding.

44. MURRAY STATE UNIVERSITY

	1994-95	1995-96
General Fund	38,762,500	39,867,300
Restricted Funds	34,893,300	35,154,600
Federal Funds	6,272,300	6,272,300
Total	79,928,100	81,294,200

Included in the above General Fund appropriation is $3,673,400 in fiscal year 1994-95 and $3,730,200 in fiscal year 1995-96 for debt service.

Included in the a above General Fund appropriation is $1,048,000 in fiscal year 1995-96 for performance funding.

45. NORTHERN KENTUCKY UNIVERSITY

	1994-95	1995-96
General Fund	29,580,700	30,385,500
Restricted Funds	41,839,800	44,355,500
Federal Funds	5,325,300	5,654,100
Total	76,745,800	80,395,100

Included in the above General Fund appropriation is $5,167,000 in fiscal year 1994-95 and $5,239,400 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $732,400 in fiscal year 1995-96 for performance funding.

46. UNIVERSITY OF KENTUCKY

	1994-95	1995-96
General Fund	245,565,800	255,523,700
Restricted Funds	454,087,800	475,783,300
Federal Funds	55,102,200	56,471,200

	1994-95	1995-96
Total	754,755,800	787,733,200

Included in the above General Fund appropriation is $17,257,900 in fiscal year 1994-95 and $20,316,600 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $6,849,200 in fiscal year 1995-96 for performance funding.

It is the intent of the General Assembly that the University use revenues generated from the development of the Coldstream Research Park to benefit the agricultural interests of the Commonwealth. Pursuant to this policy direction, the University is hereby authorized to expend from the revenues generated from the development of the Coldstream Research Park up to $12,480,000 for Phase I of the Animal Science Research Center located at the former Pin Oak #1 Farm in Woodford County to replace the animal science research facilities lost through the development of Coldstream Farm. The University should also proceed with the Agricultural Economic Development Initiative as outlined in the University's 1994-96 biennial budget request and is hereby authorized to expend up to $3,500,000 in fiscal year 1994-95 and up to $5,500,000 in fiscal year 1995-96 for this purpose from the revenues generated from the development of the Coldstream Research Park.

47. UNIVERSITY OF KENTUCKY COMMUNITY COLLEGE SYSTEM

	1994-95	1995-96
General Fund	73,855,600	78,053,600
Restricted Funds	64,435,300	67,152,300
Federal Funds	25,896,300	26,030,600
Total	164,187,200	171,236,500

Included in the above General Fund appropriation is $11,465,600 in fiscal year 1994-95 and $13,791,900 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $1,871,700 in fiscal year 1995-96 for performance funding.

48. UNIVERSITY OF LOUISVILLE

	1994-95	1995-96
General Fund	137,799,200	141,686,800
Restricted Funds	181,278,100	188,969,600
Federal Funds	27,649,300	27,649,300
Total	346,726,600	358,305,700

Included in the above General Fund appropriation is $11,861,600 in fiscal year 1994-95 and $11,867,800 in fiscal year 1995-96 for debt service. Also included in the above General Fund appropriation is $14,266,800 in fiscal year 1994-95 and $14,751,800 in fiscal year 1995-96 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to indigent care in the first year of the biennium shall continue into the second year, for this purpose. Any unused portion of the General Fund appropriation relating to indigent care shall lapse to the credit of the General Fund at the end of fiscal year 1995-96.

Included in the above General Fund appropriation is $3,338,600 in fiscal year 1995-96 for performance funding.

49. WESTERN KENTUCKY UNIVERSITY

	1994-95	1995-96
General Fund	51,503,300	53,418,500
Restricted Funds	50,144,200	52,414,000
Federal Funds	12,054,300	12,054,300
Total	113,701,800	117,886,800

Included in the above General Fund appropriation is $4,327,600 in fiscal year 1994-95 and $4,838,700 in fiscal year 1995-96 for debt service.

Included in the above General Fund appropriation is $1,404,100 in fiscal year 1995-96 for performance funding.

TOTAL - HIGHER EDUCATION

	1994-95	1995-96
General Fund	716,808,800	745,054,500
Restricted Funds	957,241,300	999,238,400
Federal Funds	172,187,400	174,289,800
TOTAL	1,846,237,500	1,918,582,700

G. HUMAN RESOURCES

50. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

	1994-95	1995-96
General Fund	27,497,200	32,645,500
Restricted Funds	35,448,800	38,415,500
Federal Funds	109,727,900	120,247,000
Total	172,673,900	191,308,000

The Department for Social Insurance shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the department, such amount may be used for Public Assistance Benefits or Welfare Reform Benefits, or for both, in accordance with the statutes governing the functions and activities of the Department for Social Insurance. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

1. Establish a new program.
2. Expand the services of an existing program.
3. Increase rates or payment levels in an existing program.

Any such transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management and shall be reported to the Interim Joint Committee on Appropriations and Revenue.

2. Benefits

	1994-95	1995-96
General Fund	73,895,900	82,857,200
Restricted Funds	4,827,000	8,931,200
Federal Funds	170,216,800	173,268,000
Total	248,939,700	265,056,400

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. No portion of this appropriation may be used for the costs of administration.

It is the intent of the General Assembly that any excess benefits appropriations from these programs in fiscal years 1993-94, 1994-95, and 1995-96 may be used to expand the number of participants in the Welfare Reform program. Any such transfer shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management and shall be reported to the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding the provisions of KRS 42.560, the amount necessary to supplement federal funds to maintain program levels as appropriated is authorized from the Energy Trust Fund for fiscal year 1994-95 and fiscal year 1995-96 for the LIHEAP and Weatherization programs.

3. Welfare Reform

	1994-95	1995-96
General Fund	14,656,100	16,156,100
Restricted Funds	5,682,700	348,200
Federal Funds	33,771,500	22,951,100
Total	54,110,300	39,455,400

If the AFDC Benefits General Fund appropriation shall be deemed inadequate to meet necessary expenses, such amount, with the approval of the Secretary of Finance and Administration Cabinet upon recommendation of the State Budget Director, may be transferred from the Welfare Reform appropriation to the Department of Social Insurance Benefits appropriation. Any such transfer shall be reported to the Interim Joint Committee on Appropriations and Revenue.

b. DEPARTMENT FOR EMPLOYMENT SERVICES

	1994-95	1995-96
General Fund	4,258,000	3,560,500
Restricted Funds	432,700	454,400
Federal Funds	445,798,100	447,645,700
Total	450,488,800	451,660,600

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account shall be used during fiscal year 1993-94 and the 1994-96 fiscal biennium by the Department for Employment Services to operate employment and training programs.

c. Department for Medicaid Services

1. Administration

	1994-95	1995-96
General Fund	21,746,500	22,362,200
Restricted Funds	3,399,900	3,399,900
Federal Fund	26,489,400	27,336,600
Total	51,635,800	53,098,700

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the department, such amount, with the approval of the Secretary of the Finance and Administration Cabinet, upon recommendation of the State Budget Director, may be used for Medicaid Benefits or Public Assistance Benefits, or both, to the needy and/or the Welfare Reform program in accordance with the statutes governing the functions and activities of the Department for Medicaid Services and of the Department for Social Insurance. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

1. Establish a new program.
2. Expand the services of an existing program.
3. Increase rates or payment levels in an existing program.

Any such transfer shall be reported to the Interim Joint Committee on Appropriations and Revenue.

It is the intent of the General Assembly that any excess General Funds appropriated to the Health Data Commission by the 1993 Extraordinary Session of the General Assembly may be transferred to the Department for Medicaid Services Administration appropriation to underwrite the costs of efficiency measures within the Medical Assistance Program.

2. Benefits

	1993-94	1994-95	1995-96
General Fund	6,500,000	408,100,000	461,300,000
Restricted Funds		173,800,000	183,200,000
Federal Funds		1,352,058,700	1,474,088,400
Total	6,500,000	1,933,958,700	2,118,588,400

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

No funds are included for additional Nursing Facility Medicaid funded beds, notwithstanding KRS 216B.061.

The distribution of HICAP/DSH assessment payments shall be governed by administrative regulations promulgated by the Cabinet for Human Resources which conform with enabling legislation.

No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Hospital Indigent Care Assurance Program (HICAP) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Human Resources shall have the authority to secure such patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy.

Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Fund appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

d. Department for Health Services

	1994-95	1995-96
General Fund	47,568,800	48,442,800
Restricted Funds	8,536,200	8,724,400
Federal Funds	119,376,300	120,036,500
Total	175,481,300	177,203,700

e. Department for Mental Health/ Mental Retardation Services

	1994-95	1995-96
General Fund	126,958,500	137,191,800
Restricted Funds	67,224,600	71,814,200
Federal Funds	24,493,400	24,089,300
Total	218,676,500	233,095,300

f. Department for Social Services

	1994-95	1995-96
General Fund	129,522,400	136,185,000
Restricted Funds	4,745,200	7,238,400
Federal Funds	109,886,800	113,112,200
Total	244,154,400	256,535,600

Notwithstanding KRS 205.460, entities contracting with the cabinet to provide essential services under KRS 205.455 and this provision shall provide local match, not less than the amount in effect during fiscal year 1993-94. Local match may include any combination of materials, commodities, transportation, office space, personal services or other types of facility services, or funds. The Secretary of the Cabinet for Human Resources shall prescribe the procedures to certify the local match assurance.

g. Administration and Program Support

	1994-95	1995-96
General Fund	26,730,100	26,535,800
Restricted Funds	6,656,300	7,024,200
Federal Funds	16,221,400	16,454,400
Total	49,607,800	50,014,400

Included in the above General Fund appropriation is $11,870,000 in fiscal year 1994-95 and $12,162,000 in fiscal year 1995-96 for debt service.

Any authorizations in this Act with respect to transfer, increase, or decrease of appropriated funds for the Cabinet for Human Resources shall be in accordance with the General Provisions of this Act.

51. COMMISSION FOR HANDICAPPED CHILDREN

	1994-95	1995-96
General Fund	1,281,000	8,066,400
Restricted Funds	9,255,400	2,561,300
Federal Funds	4,519,300	4,519,300
Total	15,055,700	15,147,000

52. HEALTH CARE POLICY BOARD

	1994-95	1995-96
General Fund	3,000,000	3,000,000
Restricted Funds	102,400	180,000
Total	3,102,400	3,180,000

TOTAL - HUMAN RESOURCES CABINET

	1993-94	1994-95	1995-96
General Fund	6,500,000	885,214,500	978,303,300
Restricted Funds		320,111,200	332,291,700
Federal Funds		2,412,559,600	2,543,748,500
TOTAL	6,500,000	3,617,885,300	3,854,343,500

H. JUSTICE CABINET

53. JUSTICE OPERATIONS

a. Justice Administration

	1994-95	1995-96

General Fund	2,518,200	3,016,100
Restricted Funds	1,030,100	1,055,100
Federal Funds	9,305,100	8,982,700
Total	12,853,400	13,053,900

b. Department of State Police

	1993-94	1994-95	1995-96
General Fund		39,521,000	41,516,800
Restricted Funds		4,547,800	4,404,100
Road Fund	3,000,000	38,291,500	40,406,800
Federal Funds		5,714,000	5,714,000
Total	3,000,000	88,074,300	92,041,700

Included in the above General Fund appropriation is debt service of $280,000 in fiscal year 1994-95 and $279,000 in fiscal year 1995-96 for previously issued bonds. Also included is $454,000 in new debt service in fiscal year 1995-96 for upgrading the Law Information Network of Kentucky System.

There is hereby appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

A $3,000,000 current year appropriation in fiscal year 1993-94 from the Road Fund is made to the State Police for the purchase of vehicles. Any of these funds not expended by June 30, 1994, shall not lapse, and shall carry forward to fiscal year 1994-95.

c. Department of Criminal Justice Training

	1994-95	1995-96
Restricted Funds	16,677,300	17,266,300

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to his regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $11,602,000 in fiscal year 1994-95 and $12,065,600 in fiscal year 1995-96 for training incentive payments pursuant to KRS 15.430, from receipts pursuant to KRS 136.392. If funds appropriated from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF) for training incentive payments are not sufficient to ensure each participant a training incentive payment which is at least $2,500, the General Assembly hereby directs that any amounts available to KLEFPF be utilized to ensure such payment.

Also included in the above restricted funds appropriation is $3,896,300 in fiscal year 1994-95 and $4,021,700 in fiscal year 1995-96 for the cost of operating the Department of Criminal Justice Training, for the operation of the Kentucky Law Enforcement Council program and the administration of the Kentucky Law Enforcement Foundation Program Fund. Also included is $1,179,000 for debt service in fiscal year 1994-95 and $1,179,000 in fiscal year 1995-96 for bonds previously issued. Any provisions to the contrary codified in KRS 15.430 to 15.510, KRS 42.190 or KRS 136.392 are hereby suspended.

TOTAL - JUSTICE OPERATIONS

	1993-94	1994-95	1995-96
General Fund		42,039,200	44,532,900
Restricted Funds		22,255,200	22,725,500
Federal Funds		15,019,100	14,696,700
Road Fund	3,000,000	38,291,500	40,406,800
Total	3,000,000	117,605,000	122,361,900

54. DEPARTMENT OF CORRECTIONS

a. Corrections Management

	1994-95	1995-96
General Fund	23,660,500	25,490,100
Restricted Funds	120,700	500
Total	23,781,200	25,490,600

Included in the General Fund appropriation is $16,911,000 in fiscal year 1994-95 and $17,444,000 in fiscal year 1995-96 for debt service on previously issued bonds for State Property and Buildings Commission Projects 32, 36, 48, 49, 52, 53, and 55. Also included is debt service of $899,000 for fiscal year 1994-95 and $945,000 for fiscal year 1995-96 for projects previously authorized.

Included in the General Fund appropriation is $724,300 in fiscal year 1995-96 for new debt service to fund a new segregation unit at the Kentucky Correctional Institution for Women, roof repair at Roederer Correctional Complex and Luther Luckett Correctional Complex, a new secure juvenile detention facility in the eastern area of the state, a wastewater line for Bell County Forestry Camp, air system circulation improvements for dorms at Luther Luckett Correctional Complex, and design of a mental health dorm at Kentucky State Reformatory.

Also included in the General Fund appropriation is $822,800 in fiscal year 1994-95 and $861,400 in fiscal year 1995-96 for the operation of the Parole Board.

b. Adult Institutions

	1994-95	1995-96
General Fund	119,922,300	128,555,400
Restricted Funds	12,320,200	10,819,000
Federal Funds	1,012,000	1,025,300
Total	133,254,500	140,399,700

c. Community Services and Local Facilities

		1994-95	1995-96
General Fund		36,392,200	40,019,500
Restricted Funds		308,000	308,000
Federal Funds		403,500	403,500
Total	37,103,700	40,731,000	

Notwithstanding KRS 196.076, funds are provided to increase the salaries of probation and parole officers who have fifteen (15) years of service, or more, as a Kentucky probation and parole officer by ten percent (10%).

Notwithstanding KRS 431.215, funds are provided to begin payment to local jails for housing state prisoners on the fourth day after final judgment is rendered.

Included in the above appropriation is $250,000 for fiscal year 1994-95 and $600,000 for fiscal year 1995-96 for continuation and expansion of community corrections programs to be administered by the Kentucky Corrections Commission.

d. Local Jails Support

	1994-95	1995-96
General Fund	14,468,500	14,468,500

Included in the General Fund appropriation is $888,000 in fiscal year 1994-95 and $888,000 in fiscal year 1995-96 for medical care contracts to be distributed, upon approval of the Corrections Cabinet, to counties by the formula codified in KRS 441.206; $200,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	1994-95	1995-96
General Fund	194,443,500	208,533,500
Restricted Funds	12,748,900	11,127,500
Federal Funds	1,415,500	1,428,800
Total	208,607,900	221,089,800

TOTAL - JUSTICE CABINET

	1993-94	1994-95	1995-96
General Fund		236,482,700	253,066,400
Restricted Funds		35,004,100	33,853,000
Road Fund	3,000,000	38,291,500	40,406,800
Federal Funds		16,434,600	16,125,500
TOTAL	3,000,000	326,212,900	343,451,700

I. LABOR CABINET

55. LABOR

a. Office of the Secretary/Administrative Services

	1994-95	1995-96
General Fund	418,800	428,600
Restricted Funds	3,131,300	3,104,900
Total	3,550,100	3,533,500

b. Department of Workplace Standards

	1994-95	1995-96
General Fund	1,711,600	1,744,900
Restricted Funds	149,801,400	166,693,600
Federal Funds	2,799,700	2,904,800
Total	154,312,700	171,343,300

c. Department of Workers' Claims

	1994-95	1995-96
Restricted Funds	8,857,200	8,947,200

The Commissioner of the Department of Workers' Claims shall be paid a salary not to exceed the salary of an administrative law judge as provided in KRS Chapter 342.

The Labor Cabinet shall report monthly to the Interim Joint Committee on Appropriations and Revenue its monthly expenditures of restricted agency funds and the nature of such expenditures. Separate reporting shall be done by each department within the Labor Cabinet and for general administration and support.

Notwithstanding the provisions of KRS Chapter 342 to the contrary, the Office of the Attorney General shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund. Funds to reimburse the Attorney General's Office for expenses incurred in litigation and administration in defense of the uninsured employers' fund shall be transferred upon request of the Attorney General's Office and approved by the Secretary of the Labor Cabinet.

The Office of the Attorney General shall report monthly to the Interim Joint Committee on Appropriations and Revenue the amount of the restricted funds expenditures in each month for the uninsured employers' fund and the nature of such expenditures.

d. Kentucky Occupational Safety and Health Review

	1994-95	1995-96
Restricted Funds	188,000	191,000
Federal Funds	188,000	191,000
Total	376,000	382,000

TOTAL - LABOR CABINET

	1994-95	1995-96
General Fund	2,130,400	2,173,500
Restricted Funds	161,977,900	178,936,700
Federal Funds	2,987,700	3,095,800
TOTAL	167,096,000	184,206,000

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

56. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

	1994-95	1995-96
General Fund	8,420,800	8,775,300
Restricted Funds	4,932,000	5,112,800
Federal Funds	2,438,800	2,474,800
Total	15,791,600	16,362,900

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is hereby appropriated; provided, however, upon recommendation of the State Budget Director, the Secretary of the Finance and Administration Cabinet shall approve such expenditure by written order, subject to the conditions and procedures provided in this Act.

Notwithstanding KRS 262.640, included in the above appropriations is $200,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96 in restricted funds for the operation of the Division of Conservation.

b. Department for Environmental Protection

	1994-95	1995-96
General Fund	18,758,300	19,448,500
Restricted Funds	15,013,500	14,903,400
Federal Funds	11,722,600	11,452,100
Total	45,494,400	45,804,000

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

An operating fee structure based on emissions shall be implemented through administrative regulations for the Division of Air Quality which will generate funds to finance the operating permit activities of the Division, and to implement, pursuant to KRS 224.10-230, the provisions of KRS 224.20-110.

c. Department for Surface Mining,
Reclamation and Enforcement

	1994-95	1995-96
General Fund	9,863,000	10,028,900
Restricted Funds	6,667,200	6,735,400
Federal Funds	13,425,200	13,838,500
Total	29,955,400	30,602,800

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is hereby appropriated to the department.

d. Abandoned Mine Lands Reclamation Project

	1994-95	1995-96
Federal Funds	22,446,800	22,455,800

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are hereby appropriated.

e. Department of Law

	1994-95	1995-96
General Fund	3,663,900	3,823,200
Restricted Funds	197,600	204,000
Federal Funds	1,594,300	1,666,400
Total	5,455,800	5,693,600

f. General Administration and Support

	1994-95	1995-96
General Fund	3,538,200	3,837,900
Restricted Funds	158,700	190,200
Federal Funds	561,600	529,200
Total	4,258,500	4,557,300

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL
PROTECTION CABINET

	1994-95	1995-96
General Fund	44,244,200	45,913,800
Restricted Funds	26,969,000	27,145,800
Federal Funds	52,189,300	52,416,800
TOTAL	123,402,500	125,476,400

57. ENVIRONMENTAL QUALITY COMMISSION

	1994-95	1995-96
General Fund	181,100	208,700
Restricted Fund	2,000	

Total	183,100	208,700

58. KENTUCKY NATURE PRESERVES COMMISSION

	1994-95	1995-96
General Fund	633,700	677,200
Restricted Funds	346,200	266,800
Federal Funds	24,900	25,000
Total	1,004,800	969,000

59. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND COMMISSION

	1994-95	1995-96
Restricted Funds	9,546,200	9,570,500

60. KENTUCKY RIVER AUTHORITY

	1994-95	1995-96
Restricted Funds	1,143,900	932,700

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1994-95	1995-96
General Fund	45,059,000	46,799,700
Restricted Funds	38,007,300	37,915,800
Federal Funds	52,214,200	52,441,800
TOTAL	135,280,500	137,157,300

K. PUBLIC PROTECTION AND REGULATION CABINET

61. OFFICE OF THE SECRETARY

	1994-95	1995-96
General Fund	289,200	303,700

62. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

	1994-95	1995-96
General Fund	1,474,300	1,547,300
Restricted Funds	396,400	383,900
Total	1,870,700	1,931,200

Notwithstanding the provisions of KRS 243.080, the twenty-five percent (25%) local license fee credit on state fees for licenses to sell distilled spirits and wine by the package and by the drink and restaurant wine licenses is hereby suspended.

Receipts from the suspension of KRS 243.080 shall be deposited to a restricted fund account to be utilized for the operation of the Department.

63. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION BOARD

	1994-95	1995-96
General Fund	449,900	458,900
Restricted Funds	1,238,600	1,255,900
Federal Funds	344,400	351,200
Total	2,032,900	2,066,000

64. BOARD OF TAX APPEALS

	1994-95	1995-96
General Fund	259,900	265,700

65. DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

	1994-95	1995-96
General Fund	2,875,600	3,066,300
Restricted Funds	23,809,800	23,949,700
Total	26,685,400	27,016,000

Notwithstanding the provisions of KRS 236.120, boiler certificate of inspection fees shall be fifteen dollars ($15).

Under the provisions of the Firefighter's Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified firefighter's annual base salary from the Firefighters' Foundation Program Fund, to be paid to each firefighter in addition to his regular salary as prescribed by KRS 95A.250. An annual allotment is also provided for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the Department of Housing, Buildings and Construction as fire departments operated and maintained on a nonprofit basis as prescribed by 95A.262.

The carry forward of restricted funds from the insurance surcharge for the Firefighters' Foundation Program Fund is hereby limited to a fund balance reserve not to exceed $3,000,000 at the end of fiscal year 1994-95 and $2,500,000 at the end of fiscal year 1995-96. Any amount available above the reserve balance on June 30 of fiscal year 1994-95 and fiscal year 1995-96 shall lapse to the General Fund, which includes $500,000 transferred in fiscal year 1995-96 as provided in Part V, Funds Transfer. The lapse for those years is estimated at $2,418,300 in fiscal year 1994-95 and $1,794,300 in fiscal year 1995-96. Any provisions to the contrary codified in KRS 15.430 to 15.510, KRS 42.190 or KRS 136.392 are hereby suspended.

66. KENTUCKY RACING COMMISSION

	1994-95	1995-96
General Fund	837,500	845,600
Restricted Funds	11,780,900	12,066,400
Total	12,618,400	12,912,000

Included in the above restricted funds appropriation is $218,000 in fiscal year 1994-95 and $219,500 in fiscal year 1995-96 for the Backside Improvement Commission. Notwithstanding KRS 230.217(3), which requires guaranteed General Fund support for an annual Breeders' Award Fund beginning balance of $3,750,000, is suspended.

67. DEPARTMENT OF MINES AND MINERALS

	1994-95	1995-96
General Fund	8,772,600	9,040,800
Restricted Funds	870,000	850,000
Federal Funds	737,900	756,600
Total	10,380,500	10,647,400

Notwithstanding KRS 351.110, 351.315, 351.175, and 353.590, the following fees are increased by the corresponding amounts: foreman/instructor exam-$25; blasting license renewal-$10; blasting license exam-$20; initial license-$20; reciprocal fee-$50; oil/gas drill permit-$100; oil gas permit transfer-$25; basic mine license-$175; underground additional section-$75; and surface additional 100K tons-$75. These fee amounts do not represent an additional increase above the corresponding fee enacted in HB 468 by the 1992 General Assembly. Included in the General Fund appropriation is $70,000 each fiscal year for publication of oil and gas production statistics contingent upon passage of enabling legislation.

68. DEPARTMENT OF PUBLIC ADVOCACY

	1994-95	1995-96
General Fund	12,350,100	12,728,100
Restricted Funds	1,713,700	2,687,000
Federal Fund	1,195,500	1,240,600
Total	15,259,300	16,655,700

Included in restricted funds are agency receipts predicated upon enabling legislation amending of two statutes: KRS 31.051 and KRS 189A.050(1) and (3). An amendment to KRS 31.051 would assess, at the time of appointment, a nonrefundable forty dollar ($40) administrative fee for any person provided counsel under the provisions of KRS Chapter 31. An amendment to KRS 189A.050(1) and (3) would increase the Driving-Under-the-Influence service fee by fifty dollars ($50), with twenty five percent (25%) of the service fee collected being allocated to the Department of Public Advocacy.

69. PUBLIC SERVICE COMMISSION

	1994-95	1995-96
General Fund	6,208,300	6,819,900
Restricted Funds	22,500	22,500
Federal Funds	127,500	136,000
Total	6,358,300	6,978,400

In addition to the General Fund appropriation for fiscal year 1993-94 as enacted by the 1992 General Assembly, there is hereby appropriated the sum of $270,000 from continued General Fund appropriation resources. In addition to the above General Fund appropriation for fiscal year 1994-95, $132,600 is authorized for expenditure from continued appropriation resources.

70. DEPARTMENT OF FINANCIAL INSTITUTIONS

	1994-95	1995-96
Restricted Funds	6,378,500	6,560,200

Included in the above appropriation is a transfer of $1,375,000 each year of the biennium to General Fund surplus.

71. DEPARTMENT OF INSURANCE

	1994-95	1995-96
Restricted Funds	10,470,900	10,445,800

Included in the above appropriation is a transfer of $2,500,000 each year of the biennium to General Fund surplus.

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	1994-95	1995-96
General Fund	33,517,400	35,076,300
Restricted Funds	56,681,300	58,221,400
Federal Funds	2,405,300	2,484,400
TOTAL	92,604,000	95,782,100

L. REVENUE

72. REVENUE CABINET

a. Department of Administrative Services

	1994-95	1995-96
General Fund	24,613,900	25,733,400
Restricted Funds	56,100	57,300
Total	24,670,000	25,790,700

Notwithstanding the provisions of KRS 136.392(1)(b), the insurance surcharge rate shall be adjusted to a rate calculated to provide sufficient funds for the 1994-96 enacted budgets, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 95A.220 and KRS 15.430 in fiscal year 1994-95 and fiscal year 1995-96. The calculation of sufficient funds in the enacted budgets shall include any restricted fund carry forwards from fiscal years 1994, 1995, and 1996, provided by the General Assembly in this Act. Appropriations budgeted for transfer to the General Fund in accordance with the provisions of Part V of this Act shall also be included.

b. Department of Tax Compliance

	1994-95	1995-96
General Fund	14,886,000	15,817,800
Road Fund	1,045,000	1,091,900
Restricted Funds	2,876,800	2,842,200
Federal Funds	215,000	215,000
Total	19,022,800	19,966,900

The Road Funds appropriated above represent the cost of the Road Fund Compliance Programs within the Revenue Cabinet.

Notwithstanding the provision of KRS 365.390, the accumulated balance in the Cigarette Enforcement Agency Fund Account is hereby appropriated for any lawful tax compliance activity. Included in the above restricted funds appropriation is $1,658,900 in fiscal year 1994-95 and $1,602,700 in fiscal year 1995-96 to be derived from provider tax receipts, which shall be transferred from the Medicaid Assessment Improvement Trust (MAIT) fund in the Cabinet for Human Resources.

c. Department of Property Taxation

	1994-95	1995-96
General Fund	5,234,900	5,159,800
Road Fund	255,000	260,100
Restricted Funds	1,364,400	1,561,300
Total	6,854,300	6,981,200

The Road Funds appropriated above represent the road fund portion of the costs of the Motor Vehicle Property Tax program and are to be used exclusively for that purpose. In accordance with the provisions of KRS 134.400, it is the intent of the General Assembly to continue the administration of the Delinquent Tax Fund in the Department of Property Taxation. Proceeds shall be deposited to this account according to KRS 134.400 except that the first $100,000 shall be deposited exclusively to the General Fund.

TOTAL - REVENUE CABINET

	1994-95	1995-96
General Fund	44,734,800	46,711,000
Road Fund	1,300,000	1,352,000
Restricted Funds	4,297,300	4,460,800
Federal Funds	215,000	215,000
TOTAL	50,547,100	52,738,800

73. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	1994-95	1995-96
Restricted Funds	171,850,400	188,536,200

TOTAL - REVENUE

	1994-95	1995-96
General Fund	44,734,800	46,711,000
Road Fund	1,300,000	1,352,000
Restricted Funds	176,147,700	192,997,000
Federal Funds	215,000	215,000
TOTAL	222,397,500	241,275,000

M. TOURISM

74. OFFICE OF THE SECRETARY

	1994-95	1995-96
General Fund	1,151,400	1,189,100

Included in the General Fund appropriation is $200,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96 for Outdoor Drama Grants. Drama programs not previously funded shall be given first priority for these funds.

75. BREAKS INTERSTATE PARK

	1994-95	1995-96
General Fund	170,000	170,000

An appropriation up to $170,000 in each year of the biennium is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount. Any unmatched portion by the Commonwealth of Virginia shall lapse to the General Fund at the close of each fiscal year. The Park Commission is directed to provide an annual audit report to the Legislative Research Commission and the Secretary of the Tourism Cabinet.

76. DEPARTMENT OF TRAVEL DEVELOPMENT

	1994-95	1995-96
General Fund	6,104,800	6,188,200
Restricted Funds	3,500	3,500
Total	6,108,300	6,191,700

Included in the General Fund appropriation is $2,030,000 in each year of the biennium for the Comprehensive Advertising Contract and $800,000 each year of the biennium for the Local and Regional Matching Funds Program.

77. DEPARTMENT OF PARKS

	1994-95	1995-96
General Fund	23,541,200	33,069,700
Restricted Funds	41,702,400	43,034,000
Total	65,243,600	76,103,700

Included in the General Fund appropriation is $3,195,000 in fiscal year 1994-95 and $3,182,000 in fiscal year 1995-96 for debt service for Projects 45, 48, 49, 50, 51, 52, 53, 55, and $319,000 in fiscal year 1994-95 and $749,000 in fiscal year 1995-96 for debt service for reauthorized unissued bonds. The General Fund appropriation also includes $8,081,000 of reauthorized debt service in fiscal year 1995-96 for the $85,097,000 revitalization bond projects and $701,000 for debt service on the new authorized bond projects as identified in Part II.

Included in the above General Fund appropriation is $260,000 in each fiscal year to establish Carr Fork Lake and Nolin Lake as State Parks.

Included in the above General Fund appropriation is $155,000 in each fiscal year to improve the quality of golf course in state parks.

78. KENTUCKY HORSE PARK

	1994-95	1995-96
General Fund	2,440,000	2,466,000
Restricted Funds	3,806,000	3,948,000
Total	6,246,000	6,414,000

Included in the General Fund appropriation is $1,358,000 in fiscal year 1994-95 and $1,356,000 in fiscal year 1995-96 for debt service for Projects 29 and 53.

79. STATE FAIR BOARD

	1994-95	1995-96
General Fund	8,428,900	10,959,900
Restricted Funds	20,401,200	20,758,200
Total	28,830,100	31,718,100

Included in the General Fund appropriation is $8,393,000 in fiscal year 1994-95 and $8,549,000 in fiscal year 1995-96 for debt service for Projects 21, 26, 38, 48, 50, and 55. The General Fund appropriation also includes $2,375,000 in fiscal year 1995-96 for new debt service authorization for the project identified in Part II. Also included in the Restricted Funds appropriation is $371,000 in each year of the biennium for debt service for Project 21.

Also included in the General Fund appropriation is $406,900 in each year of the biennium for the North American International Livestock Exposition.

80. FISH AND WILDLIFE RESOURCES

	1994-95	1995-96
Restricted Funds	23,113,400	23,862,200
Federal Funds	595,600	600,000
Total	23,709,000	24,462,200

TOTAL-TOURISM CABINET

	1994-95	1995-96
General Fund	41,836,300	54,042,900
Restricted Funds	89,026,500	91,605,900
Federal Funds	595,600	600,000
TOTAL	131,458,400	146,248,800

N. TRANSPORTATION

81. TRANSPORTATION CABINET

a. General Administration and Support

	1993-94	1994-95	1995-96
Restricted Funds	3,922,900	15,052,000	15,240,300
Road Fund		49,050,300	50,654,900
Total	3,922,900	64,102,300	65,895,200

b. Air Transportation

	1994-95	1995-96
General Fund	3,126,500	2,151,300
Restricted Funds	49,800	51,400
Federal Funds	17,000	17,600
Total	3,193,300	2,220,300

In addition to the above General Fund appropriation for fiscal year 1994-95, $2,500,000 is authorized for expenditure from continued appropriated resources.

c. Rail Transportation

	1994-95	1995-96
General Fund	67,100	69,300
Federal Funds	175,000	175,000
Total	242,100	244,300

1. Included within the above General Fund appropriation is $67,100 in fiscal year 1994-95 and $69,300 in fiscal year

1995-96 for the Railroad Commission.

d. Public Transportation

	1994-95	1995-96
General Fund	932,200	939,600
Restricted Funds	66,300	66,300
Federal Funds	3,829,500	3,840,000
Total	4,828,000	4,845,900

e. Revenue Sharing

	1994-95	1995-96
Road Fund	184,777,800	188,575,300

1. Included within the above Road Fund appropriation is $69,753,700 in fiscal year 1994-95 and $71,176,500 in fiscal year 1995-96 for the County Road Aid program in accordance with KRS 177.320 and KRS 179.410 to 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 1994-95 and $38,000 in fiscal year 1995-96 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included within the above Road Fund appropriation is $84,619,300 in fiscal year 1994-95 and $86,345,300 in fiscal year 1995-96 for the Rural Secondary program in accordance with KRS 177.320 to 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 1994-95 and $46,000 in fiscal year 1995-96 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included within the above Road Fund appropriation is $29,349,800 in fiscal year 1994-95 and $29,948,500 in fiscal year 1995-96 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 1994-95 and $16,000 in fiscal year 1995-96 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included within the above Road Fund appropriation is $1,055,000 in fiscal year 1994-95 and $1,105,000 in fiscal year 1995-96 for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

f. Highways

	1994-95	1995-96
Restricted Funds	18,442,200	2,299,400
Federal Funds	312,712,000	345,213,600
Road Fund	444,425,000	424,449,300
Bond Funds	66,475,000	93,525,000
Total	842,054,200	865,487,300

1. Included with in the above Road Fund appropriation is $209,464,500 in fiscal year 1994-95 and $175,438,800 in fiscal year 1995-96 for the State Funded Construction program.

Included with the State Funded Construction Program is $47,000,000 in fiscal year 1994-95 and $47,000,000 in fiscal year 1995-96 for state resurfacing projects.

Included with the State Funded Construction Program is $452,000 in fiscal year 1994-95 and $452,000 in fiscal year 1995-96 for the Specialized Contracts account.

Included within the State Funded Construction Program is $110,912,500 in fiscal year 1994-95 and $82,886,800 in fiscal year 1995-96 for state construction projects in the 1994-96 Biennial Highway Construction Program.

Included in the State Construction Program is $100,000 in fiscal year 1994-95 for the Advantage Interstate 75 project.

Included in the State Construction Program is $3,000,000 in fiscal year 1994-95 for the State/Local Bridge Program.

Included in the State Construction Program is $18,000,000 in fiscal year 1994-95 and $15,000,000 in fiscal year 1995-96 for the Parkway Rehabilitation Program.

Included in the State Construction Program is $30,000,000 in fiscal year 1994-95 and $30,000,000 in fiscal year 1995-96 for the Highway Construction Contingency Account.

2. Included within the above Road Fund appropriation is $290,000 in fiscal year 1994-95 and $290,000 in fiscal year 1995-96 for the Kentucky Transportation Center.

3. Included within the above Road Fund appropriation is $1,000,000 in fiscal year 1994-95 and $1,000,000 in fiscal year 1995-96 to purchase heavy trucks and other snow and ice removal related equipment.

4. Included within the above Road Fund appropriation is $2,000,000 in fiscal year 1994-95 and $2,000,000 in fiscal year 1995-96 to replenish the Snow and Ice Removal Reserve Fund.

5. Notwithstanding KRS 48.710, $1,400,000 is appropriated in fiscal year 1994-95 and $800,000 in fiscal year 1995-96 from the sale of surplus equipment to purchase new highway equipment.

6. Included in the above Bond Funds appropriation is $10,000,000 in Investment Income Earnings from the issuance of the $150,000,000 in Economic Development Road Bonds authorized herein.

g. Vehicle Regulation

	1994-95	1995-96
Restricted Funds	1,714,800	1,745,400
Federal Funds	962,900	992,700
Road Fund	22,142,900	22,773,800
Total	24,820,600	25,511,900

Notwithstanding KRS 186.240, no Road Fund appropriation is provided in fiscal year 1994-95 for the replacement of license plates on most passenger vehicles and small trucks.

h. Debt Service

	1994-95	1995-96
Road Fund	161,241,200	159,869,400

1. Included within the above Road Fund appropriation is $52,078,500 in fiscal year 1994-95 and $42,354,900 in fiscal year 1995-96 for toll road lease rental payments.

2. Included within the above Road Fund appropriation is $13,913,200 in fiscal year 1994-95 for debt service on general obligation highway bonds.

3. Included within the above Road Fund appropriation is $41,709,000 in fiscal year 1994-95 and $41,704,500 in fiscal year 1995-96 for Resource Recovery Road lease rental payments. It is the intent of the General Assembly that the Secretary of Transportation shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

4. Included within the above Road Fund appropriation is $46,343,100 in fiscal year 1994-95 and $61,415,200 in fiscal year 1995-96 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Bonds previously issued by the Turnpike Authority of Kentucky.

5. Included within the above Road Fund appropriation is $7,197,400 in fiscal year 1994-95 and $14,394,800 in fiscal year 1995-96 for Economic Development Road lease rental payments to the Turnpike Authority of Kentucky relating to projects financed by an additional $150,000,000 in Economic Development Road Bonds hereby authorized by the General Assembly to be issued in the 1994-96 fiscal biennium for the payment of the cost of the economic development road projects in accordance with KRS 175.780.

6. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the Highway Construction Contingency Account.

Notwithstanding the provisions of KRS 175.505, it is the intent of the General Assembly that no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding the provisions of KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 1994-96 biennium.

It is the intent of the General Assembly that any unexpended balance remaining at the close of the 1993-94 fiscal year in the Snow and Ice Removal Reserve Fund, as reestablished by the 1994 General Assembly, shall be appropriated in fiscal year 1994-95 for the same purpose.

It is the intent of the General Assembly that interest is to accrue to the Snow and Ice Removal Reserve Fund account during the 1992-94 biennium.

No funds shall be expended from the Snow and Ice Removal Reserve Fund until the Transportation Cabinet's cumulative snow and ice removal expenditures, in any fiscal year of the 1994-96 biennium exceed $6,900,000. If this provision is implemented, the Secretary of the Transportation Cabinet shall certify to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation the documented need and usage of this fund.

Any unexpended balance remaining in the Snow and Ice Removal Reserve Fund at the close of the 1994-95 fiscal year shall not lapse, but shall continue into fiscal year 1995-96.

TOTAL - TRANSPORTATION CABINET

	1993-94	1994-95	1995-96
General Fund		4,125,800	3,160,200
Restricted Funds	3,922,900	35,325,100	19,402,800
Federal Funds		317,696,400	350,238,900
Road Fund		861,637,200	846,322,700
Bond Funds		66,475,000	93,525,000

TOTAL	3,922,900	1,285,259,500	1,312,649,600

O. WORKFORCE DEVELOPMENT

82. DEPARTMENT FOR THE BLIND

	1994-95	1995-96
General Fund	1,646,400	1,700,600
Restricted Funds	3,200,300	3,299,300
Federal Funds	5,927,400	5,974,500
Total	10,774,100	10,974,400

83. DEPARTMENT FOR ADULT EDUCATION AND LITERACY

	1994-95	1995-96
General Fund	8,765,100	10,529,800
Restricted Funds	2,322,300	2,198,000
Federal Funds	8,243,100	7,946,700
Total	19,330,500	20,674,500

Included in the above General Fund appropriation is $1,615,000 in fiscal year 1995-96 for an initiative to establish a Workplace Essential Skills program.

84. DEPARTMENT FOR TECHNICAL EDUCATION

	1994-95	1995-96
General Fund	58,710,200	63,619,300
Restricted Funds	29,102,900	29,878,400
Federal Funds	26,833,000	27,215,100
Total	114,646,100	120,712,800

Included in the above General Fund appropriation is $1,435,200 in fiscal year 1994-95 and $2,122,800 in fiscal year 1995-96 for the staffing, maintenance, and operation of new or expanded facilities coming on line during the 1994-96 biennium. Included in the above General Fund appropriation is $500,000 in fiscal year 1994-95 and $500,000 in fiscal year 1995-96 for Tech Prep expansion. Also included in the above General Fund appropriation is $2,451,000 in each year of the biennium for equipment procurement.

85. STATE BOARD FOR ADULT AND TECHNICAL EDUCATION

	1994-95	1995-96
General Fund	33,600	33,600

86. DEPARTMENT FOR VOCATIONAL REHABILITATION

	1994-95	1995-96
General Fund	7,859,400	8,260,900
Restricted Funds	2,015,800	2,063,000
Federal Funds	33,934,600	35,606,500
Total	43,809,800	45,930,400

87. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	1994-95	1995-96
General Fund	7,401,000	9,454,800
Restricted Funds	2,353,100	2,450,400
Federal Funds	2,820,800	2,497,000
Total	12,574,900	14,402,200

Included in the above General Fund appropriation is debt service in the amount of $3,647,000 in fiscal year 1994-95 and $3,637,000 in fiscal year 1995-96 for previously issued bonds. Debt service of $761,000 in fiscal year 1995-96 is provided for the Hopkinsville Regional Technical Training Center, $682,000 in fiscal year 1995-96 for the Kentucky Tech Danville Campus, and $484,000 in fiscal year 1995-96 for the Shelby County State Vocational Technical School.

In addition, the above General Fund appropriation includes $126,200 in fiscal year 1994-95 and $209,000 in fiscal year 1995-96 for an initiative to address the need for performance measurement and accountability.

88. TEACHERS' RETIREMENT-EMPLOYER'S

CONTRIBUTION

	1994-95	1995-96
General Fund	8,182,700	8,652,000

The above General Fund appropriation includes the employer match for salaries paid to vocational teachers and other Cabinet for Workforce Development employees who participate in the Teachers' Retirement System. This match will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

89. STATE BOARD FOR PROPRIETARY EDUCATION

	1994-95	1995-96
Restricted Funds	99,400	103,000

90. GOVERNOR'S COUNCIL ON VOCATIONAL EDUCATION

	1994-95	1995-96
Federal Funds	156,200	156,200

91. JOB TRAINING COORDINATING COUNCIL

	1994-95	1995-96
Federal Funds	162,100	168,400

TOTAL - WORKFORCE DEVELOPMENT

	1994-95	1995-96
General Fund	92,598,400	102,251,000
Restricted Funds	39,093,800	39,992,100
Federal Funds	78,077,200	79,564,400
TOTAL	209,769,400	221,807,500

PART II

CAPITAL PROJECTS BUDGET

All appropriations to existing line-item capital construction projects expire on June 30, 1994, unless reauthorized in this act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 1994; (2) permanent financing shall have been obtained in the case of projects authorized for bonds; or (3) grant or loan agreements, if applicable, have been finalized and properly signed by all necessary parties. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 1994.

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1994-96 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. ECONOMIC DEVELOPMENT

Budget Unit	1994-95	1995-96
1. Community Economic Development Projects		
Bond Funds		32,000,000
Other Funds		53,000,000
Total		85,000,000

Included in the above fiscal year 1994-95 appropriations are the following projects: Northern Kentucky Convention Center - $25,000,000 Bond Funds; Louisville Stadium - $7,000,000 Bond Funds, $53,000,000 Other Funds.

The sale of bonds for these projects shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

2. Kentucky River Parks - Reauthorization.

3. Economic Development Projects

a. Economic Development Bond Pool-Reauthorization

	1994-95	1995-96
Bond Funds Additional		11,000,000

Included in the above fiscal year 1994-95 Economic Development Bond Pool Reauthorization are the following projects: Lake Reba Community Center - $2,000,000; Blue Grass Music Museum - $2,000,000; Kentucky Coal Mining Museum - $616,400; Kentucky Railway Museum - $285,000; Kentucky River Parks - $600,000.

Notwithstanding KRS 152.052(6), 154.12-100(6), the amounts shown above reflect project amounts.

The sale of bonds for these projects shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

B. EDUCATION

Budget Unit	1994-95	1995-96
1. Department of Education		
a. Miscellaneous Maintenance Pool		
Investment Income	165,000	165,000
b. Kentucky School for the Deaf		
Classroom Roof Replacements		
General Fund	439,000	
c. Kentucky School for the Blind		
Soil Stabilization and Grounds		
Improvement		
General Fund	435,600	

C. EDUCATION ARTS AND HUMANITIES

Budget Unit	1994-95	1995-96
1. Kentucky Teachers' Retirement System		
Upgrade Computer System		
Restricted Funds	75,000	75,000
2. Kentucky Historical Society		
a. Kentucky Historical Preservation Center -		
Reauthorization		
Bond Funds		
Additional	10,000,000	
Restricted Funds	10,500,000	
3. Kentucky Authority for Educational Television		
a. Video Compression		
Restricted Funds	3,174,000	
b. Closed Captioning Equipment		
Restricted Funds	275,000	
4. Kentucky Center for the Arts		
a. Stage Lighting System		
General Fund	876,000	
b. Reupholster Seats		
General Fund	216,000	
5. School Facilities Construction		
Commission-Reauthorization		
Bond Funds		

Notwithstanding any other statutory provisions to the contrary, the School Facilities Construction Commission shall incur no more than $77,500,000 in bonded indebtedness beyond that already incurred as of January 1, 1994. No bonds shall be sold prior to July 1, 1994, except in instances where the associated debt service has been escrowed under the provisions of KRS 157.622(5).

D. FINANCE AND ADMINISTRATION

Budget Unit	1994-95	1995-96
1. General Administration		
a. Kentucky Infrastructure Authority-Wastewater		
Revolving Loan and Grant Fund-A - Reauthorization;		
(Wastewater Fund-A1; Water Supply Fund-A2)		
Bond Funds		
Additional	10,000,000	
b. Kentucky Infrastructure Authority - Fund B Loans		

		Reauthorization ($17,500,000 in fiscal year 1994-95 only)		
	c.	Solid Waste Revolving Loan and Grant Fund -Reauthorization ($3,000,000 in fiscal year 1995-96 only)		
	d.	Departmental Processor Replacement		
		General Fund	350,000	
2.		Department for Administration		

For the major equipment purchases displayed in this section as restricted funds supported projects, it is anticipated that these funds shall be transferred from the operating budget at such time as funds are available and needed.

	a.	High Volume Production Publisher		
		Restricted Funds	365,000	
3.		Department for Facilities Management		
	a.	State Office Building-Asbestos Removal		
		Bond Funds	10,000,000	
	b.	Capital Plaza Roof Replacement		
		Bond Funds	1,500,000	
	c.	New State Office Building Site Analysis and Design		
		Bond Funds	4,000,000	
	d.	Jefferson County Courthouse		
		General Fund		500,000
	e.	Emergency Repair, Maintenance and Replacement Fund		
		General Fund	3,688,600	2,000,000
	f.	Capital Construction and Equipment Purchase Contingency Fund		
		General Fund	900,000	900,000
	g.	ADA Compliance		
		General Fund	900,000	900,000
	h.	Central State Hospital Recovery		
		General Fund	460,000	700,000
		Restricted Funds	210,000	210,000
		Total	670,000	910,000
	i.	Maintenance Pool		
		Capital Construction Surplus	150,000	150,000
		Investment Income	700,000	700,000
		Total	850,000	850,000
4.		Department for Information Systems		

For the major equipment purchases displayed in this section as restricted funds supported projects, it is anticipated that these funds shall be transferred from the operating budget funds at such time as funds are available and needed.

a.	6 Disk Storage Devices-Reauthorization		
b.	Telecommunications Controller-Reauthorization		
c.	Micrographics Replacement-Reauthorization		
d.	Processor Upgrade		
	Restricted Funds	6,000,000	
e.	Transaction Parallel Processor		
	Restricted Funds	1,000,000	
f.	Video Text Processor Replacement		
	Restricted Funds	180,000	
g.	Disk Controller		
	Restricted Funds	290,000	
h.	Disk Controller Upgrade		
	Restricted Funds	160,000	

i. Robotic Tape System		
Restricted Funds		1,000,000
j. Processor Memory		
Restricted Funds		1,100,000
k. Commonwealth Integrated Network System		
Restricted Funds (FY 1993-94-$1,000,000)1,300,000	1,300,000	
l. Franklin County - Lease		
5. Lottery Corporation		
a. Lottery Headquarters Consolidation		
Other Funds		
(FY 1993-94 - $5,205,000)		
6. Kentucky Housing Corporation		
a. New Building		
Other Funds	1,600,000	

E. GOVERNMENT OPERATIONS

Budget Unit	1994-95	1995-96
1. Department of Agriculture		
a. Northern Kentucky Farmers Market		
Bond Funds	3,000,000	
Restricted Funds	550,000	
Federal Funds	1,328,000	2,122,000
Total	4,878,000	2,122,000

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

Budget Unit	1994-95	1995-96
b. Volume Metric Prover Test Unit System		
Restricted Funds	140,000	
c. Large Scale Test Unit		
Restricted Funds	145,000	
2. State Board of Elections		
a. Computer Upgrade		
General Fund	100,000	100,000
3. Law		
a. Office Computer Networking System		
General Fund	200,000	225,000
b. Franklin County Office Space Lease-Consolidation of Offices		
4. Unified Prosecutorial System		
a. Jefferson County Office Space Lease-Jefferson County Commonwealth's Attorney		
5. Department of Local Government		
a. Local Participation Match Program		
Bond Funds	1,000,000	4,000,000

The sale of bonds in fiscal year 1994-95 for this project shall occur after January 1, 1995. Annual debt service is provided for bonds in fiscal year 1995-96.

Budget Unit	1994-95	1995-96
6. Department of Military Affairs		
a. Miscellaneous Maintenance		
Investment Income	900,000	900,000
Federal Funds	91,000	261,000
Total	991,000	1,161,000

b. Aircraft Maintenance		
Investment Income	100,000	210,000
c. Unit Training Equipment Site, Greenville		
Federal Funds	3,743,000	
d. West Kentucky Training Site, Greenville, Phase I		
Federal Funds	4,399,000	
e. IFLOWS		
General Fund	97,800	175,000
Federal Funds	116,000	100,000
Total	213,800	275,000
f. Kentucky Arsenal Rehabilitation		
Federal Funds	200,000	300,000
g. Capital City Airport Runway Extension		
General Fund		25,000
Restricted Funds		25,000
Federal Funds		450,000
Total		500,000
h. National Guard Armory, Shelbyville-Reauthorization		
Federal Funds (FY 1993-94 - $107,000)		
i. National Guard Armory, Benton-Reauthorization		
j. DES-EOC		
Federal Funds (FY 1993-94 - $20,000)		
k. Kentucky Veterans Nursing Home and Cemetery		
General Fund	150,000	
7. Department of Personnel		
a. Lease-Franklin County		
8. Kentucky Retirement Systems		
a. IBM AS/400 Computer		
Restricted Funds	80,800	
b. Lease-Franklin County		
c. Optical Disk System		
Restricted Fund	19,000	99,000

F. HIGHER EDUCATION

Budget Unit	1994-95	1995-96
1. Kentucky Higher Education Assistance Authority		
a. Computer Processor		
Restricted Funds	425,000	
2. Council on Higher Education		
a. Life Safety Projects Bond Pool		
Bond Funds	15,000,000	

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

b. University Restricted Funds Bond Projects Pool		
Agency Bond	35,000,000	
3. Eastern Kentucky University		
a. Dairy Center Relocation		
Restricted Funds	500,000	
b. Fire Science Building-Reauthorization		

c.	Heat Plant Boiler-Additional		
	Restricted Funds	100,000	
d.	Minor Projects		
	Restricted Funds	4,000,000	4,000,000
e.	Parking Garage-Reauthorization		
f.	Property Acquisition-Reauthorization		
g.	Administrative Computing Systems Upgrade/Replacement		
	Restricted Funds	785,000	500,000
h.	Bus		
	Restricted Funds	250,000	
i.	Campus Data Network Expansion/Upgrade		
	Restricted Funds	1,000,000	1,150,000
j.	Distant Learning System Component Acquisition		
	Restricted Funds	2,486,000	372,000
	Federal Funds	113,000	
	Total	2,599,000	372,000
k.	Fourier Transform Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds	135,000	
l.	Media Resources Broadcast Video Expansion/Upgrade		
	Restricted Funds		240,000
	Federal Funds		138,000
	Total		378,000
m.	Minor Projects		
	Restricted Funds	2,000,000	1,000,000
n.	X-Ray Fluorescence Unit		
	Restricted Funds	105,000	
o.	Classroom/Wellness Center		
	Bond Funds		3,000,000

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

4.	Kentucky State University		
a.	ADA Projects Pool		
	Restricted Funds	450,000	
b.	Campus Roads/Walks/Landscaping		
	Restricted Funds		350,000
c.	Center for Excellence		
	Restricted Funds		5,000,000
d.	Exterior Athletic Facility Renovation		
	Restricted Funds		250,000
e.	Hume Hall HVAC and Roof Structure		
	Restricted Funds	600,000	
f.	Kain Ford Property-Reauthorization		
5.	Morehead State University		
a.	1990 Clean Air Act Amendment Compliance		
	Restricted Funds	1,000,000	
b.	ADA Compliance - Auxiliary Enterprise		
	Restricted Funds	500,000	500,000
c.	ADA Compliance-E & G		

	Restricted Funds	1,000,000	
d.	Campus Landscaping/Street Realignment/Improvements-Reauthorization		
e.	Community and Economic Development Center and Hardwood Institute		
	Federal Funds	9,500,000	
f.	Dam Repair/Restoration		
	Restricted Funds	350,000	
g.	Development of Wellness Facilities		
	Restricted Funds		500,000
h.	Elevator Repairs - Auxiliary Enterprise		
	Restricted Funds	240,000	240,000
i.	Elevator Repairs-E & G		
	Restricted Funds	360,000	
j.	Environmental Health Safety		
	Restricted Funds	790,000	
k.	Extended Campus Instructional Facilities		
	Restricted Funds	1,904,000	
l.	Fire Safety - Auxiliary Facilities		
	Restricted Funds	650,000	650,000
m.	Folk Art Museum - Acquisition/Renovation		
	Restricted Funds	135,000	
	Federal Funds	543,000	
	Total	678,000	
n.	Housing System Improvement-Reauthorization		
o.	Lappin Hall Renovation-Additional		
	Bond Funds	6,850,000	
p.	Parking Area Development		
	Restricted Funds	250,000	250,000
q.	Plant Facilities Construction Phase I		
	Restricted Funds	420,000	420,000
r.	Protect Investment - Auxiliary Facilities		
	Restricted Funds	1,000,000	1,000,000
s.	Protect Investment in E & G Facilities		
	Restricted Funds	1,000,000	1,000,000
t.	Student Housing Project-Reauthorization		
u.	Instructional/Support Equipment Pool		
	Restricted Funds	500,000	500,000
v.	Interactive Distance Learning Equipment (Lease/Purchase)		
	Restricted Funds	1,500,000	
w.	Library Computer System (Lease/Purchase)		
	Restricted Funds	750,000	
x.	Microcomputers/LANS/Peripherals (Lease/Purchase)		
	Restricted Funds	3,200,000	
y.	Printing Equipment (Lease/Purchase)		
	Restricted Funds	640,000	
z.	Satellite Uplink Equipment (Lease/Purchase)		
	Restricted Funds	525,000	
aa.	Tour Bus (Lease/Purchase)		
	Restricted Funds	330,000	
ab.	Video Network (Lease/Purchase)		

		Restricted Funds	1,950,000	
	ac.	WMKY Transmitter		
		Restricted Funds	134,000	
6.		Murray State University		
	a.	ADA Compliance, Elevators E & G		
		Restricted Funds	307,000	
	b.	ADA Compliance, Elevators E & G		
		Restricted Funds		196,000
	c.	ADA Compliance, Fire Horns E & G		
		Restricted Funds	160,000	
	d.	Blackburn Science Research Modernization		
		Bond Funds		1,200,000
		Federal Funds	1,200,000	
		Total	1,200,000	1,200,000

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

	e.	Business Interactive TV Center (COE)		
		Restricted Funds	325,000	
	f.	Chlorofluorocarbon Compliance, Central Plant Chiller		
		Restricted Funds	800,000	
	g.	Equine Instruction Facility		
		Restricted Funds	500,000	
	h.	Expo Center Roof-Additional		
		Restricted Funds		240,000
	i.	Fire/Safety, E & G Sprinklers-Doyle Fine Arts		
		Restricted Funds	280,000	
	j.	General Services Roof Replacement		
		Restricted Funds	233,000	
	k.	National Scouting Museum, Boy Scouts of America Phase III-Additional		
		Restricted Funds		878,000
	l.	Projects less than $200,000 (E & G)		
		Restricted Funds	1,368,000	1,197,000
	m.	Projects less than $200,000 (H & D)		
		Restricted Funds	640,000	580,000
	n.	Underground Tank/Site Clean-up (Motor Pool/Expo)		
		Restricted Funds	750,000	
	o.	Breathitt Autoclaves		
		Restricted Funds	136,000	
	p.	Breathitt Electron Microscope (Transmission Type)		
		Restricted Funds		200,000
	q.	Multi-media Distribution System and Production Facility		
		Restricted Funds	244,000	
	r.	Multi-media Distribution System-Pool		
		Restricted Funds	462,000	
7.		Northern Kentucky University		
	a.	ADA Compliance (1994-96)		
		Restricted Funds	390,000	
	b.	Alumni and Faculty/Staff Center		

	Restricted Funds	2,300,000	
c.	Bookstore Renovation		
	Restricted Funds	250,000	
d.	Chiller Replacements/CFC		
	Restricted Funds	4,000,000	
e.	Communications Network Cabling Installation		
	Restricted Funds	450,000	
f.	Covington Campus Renovation		
	Restricted Funds	700,000	
g.	Elevator Upgrade/ADA - Nunn and Natural Science		
	Restricted Funds	560,000	
h.	Energy Conservation/Management Pool (1994-96)		
	Restricted Funds	100,000	300,000
i.	Interfaith Center		
	Restricted Funds	2,000,000	
j.	Minor Projects Pool (1994-96)		
	Restricted Funds	400,000	585,000
k.	Safety Lighting		
	Restricted Funds	750,000	
l.	Front-End Processor (Lease/Purchase)		
	Restricted Funds	195,000	
m.	High Speed Copier/Finisher (Lease/Purchase)		
	Restricted Funds	234,000	
n.	ID Card Management System (Lease/Purchase)		
	Restricted Funds	120,000	
o.	Instructional Computer Upgrade (Lease/Purchase)		
	Restricted Funds	351,000	
p.	Library Automation Computer Upgrade (Lease/Purchase)		
	Restricted Funds	294,000	
q.	Single Color Press (Lease/Purchase)		
	Restricted Funds	132,000	
r.	Voice Response/Touch-Tone System (Lease/Purchase)		
	Restricted Funds	201,000	
s.	Land Acquisition - Reauthorization Add Land Acquisition related to Campus Master Plan		
	Restricted Funds	1,500,000	
t.	Natural Science Building		
	Restricted Funds	1,300,000	
u.	Land Acquisition		
	Bond Funds		700,000

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

8. University of Kentucky

a.	Mechanical Engineering		
	Restricted Funds	4,000,000	
	Bond Funds	7,330,000	
	Agency Bond	7,330,000	
	Total	18,660,000	

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

b.	4KV to 12KV Electrical Conversion		
	Restricted Funds		1,500,000
c.	Agricultural Science Greenhouses		
	Restricted Funds		950,000
d.	Animal Science Research Center		
	Restricted Funds	12,480,000	
e.	Center for Rural Health in Hazard		
	General Fund		200,000
f.	Chilled Water Additions		
	Restricted Funds		700,000
g.	Chiller Replacement		
	Restricted Funds		1,000,000
h.	Coldstream Research Campus Infrastructure Phase II		
	Restricted Funds		5,500,000
i.	Commonwealth Library-Additional		
	Bond Funds	46,000,000	
j.	Cooling #1 Primary Pumping		
	Restricted Funds	600,000	
k.	Cooling #3 to Limestone Chilled Water Pipe		
	Restricted Funds		1,800,000
l.	Cooling #2 Expansion		
	Restricted Funds		3,000,000
m.	Cooling Secondary Pumping		
	Restricted Funds		2,000,000
n.	Cooper House Renovation		
	Restricted Funds		650,000
o.	Deferred Maintenance Projects		
	Restricted Funds	8,075,000	
p.	Development Addition-Reauthorization		
q.	Dispensing Lab Renovation		
	Restricted Funds	350,000	
r.	Electrical Substation #1 Switching		
	Restricted Funds	500,000	
s.	Electrical Substation #1 and #2 Connections		
	Restricted Funds		1,500,000
t.	Field Biology Research Facility		
	Restricted Funds	500,000	
u.	Handicapped Access		
	Restricted Funds	773,000	
v.	Kastle Hall Renovation		
	Restricted Funds		6,250,000
w.	King Alumni Renovation-Reauthorization		
x.	Lab/Demonstration Renovation		
	Restricted Funds	200,000	
y.	Land Acquisition		
	Restricted Funds	1,000,000	

z.	Life Safety/Environmental Health		
	Restricted Funds	16,599,000	
aa.	Long Range Utility Planning		
	Restricted Funds		250,000
ab.	McVey Hall Renovation		
	Restricted Funds	1,600,000	
ac.	Medical Center Chilled Water Loop		
	Restricted Funds		500,000
ad.	Medical Center Research Building Shelled Space Fit Up		
	Restricted Funds		2,300,000
ae.	North Campus Chilled Water Main		
	Restricted Funds		2,000,000
af.	Parking Structure-Reauthorization		
ag.	Parking Structure #2 Repairs		
	Restricted Funds	1,360,000	
ah.	Pence Hall Renovation		
	Restricted Funds		2,574,000
ai.	Publishing Services Building Addition		
	Restricted Funds	408,000	
aj.	Relocate Soccer Field/Softball Field		
	Restricted Funds	1,500,000	
ak.	Renovate Dimmock Animal Pathology Building		
	Restricted Funds		3,000,000
al.	Renovate Pharmacy Tech Unit		
	Restricted Funds		210,000
am.	Renovation of Funkhouser - Student Services		
	Restricted Funds		612,000
an.	Slone Building		
	Restricted Funds		2,600,000
ao.	Steam Condensate Pipe Repair		
	Restricted Funds	250,000	
ap.	Steam Line Expansion Rose Street		
	Restricted Funds		700,000
aq.	Tennis Stadium-Reauthorization		
ar.	Underground Storage Tanks		
	Restricted Funds	1,175,000	
as.	ATM Interface for the ATT/5ESS IS-Lease/Purchase		
	Restricted Funds		250,000
at.	Advanced Pressurized Coal Pyrolysis/Combustion System		
	Restricted Funds		250,000
au.	CAD/CAM System for College of Dentistry (MC)		
	Restricted Funds	184,000	
av.	Cell Sorter		
	Restricted Funds	202,000	
aw.	Central Computing Network System (MC)		
	Restricted Funds	225,000	
ax.	Concept Hybrid 2000 AMU MS/MS Module		
	Restricted Funds	160,000	
ay.	Confocal Laser Microscope and Attachments		

	Restricted Funds	200,000	
az.	Confocal Microscope		
	Restricted Funds	300,000	
ba.	Core Molecular Biology Analytical Equipment		
	Restricted Funds	205,000	
bb.	Cryogenics Equipment		
	Restricted Funds	250,000	
bc.	Database Testbed (LC)		
	Restricted Funds		225,000
bd.	Dental Operatories: Chairs, Units, Lights, Stools Lease/Purchase		
	Restricted Funds	200,000	200,000
be.	Departmental Computer Upgrade for A & S (LC)		
	Restricted Funds	225,000	
bf.	Departmental Processor for Extension (LC)		
	Restricted Funds	200,000	
bg.	Digital Radiograph/Imaging System (Lease/Purchase)		
	Restricted Funds	100,000	100,000
bh.	Distributed Systems Testbed (LC)		
	Restricted Funds	250,000	
bi.	Echoplaner Upgrade		
	Restricted Funds	520,000	
bj.	Echoplaner Upgrade for Research		
	Restricted Funds	250,000	
bk.	Electronic Filing System (EFS) (MC)		
	Restricted Funds	225,000	
bl.	Environmental Test System		
	Restricted Funds	125,000	
bm.	File Server System Upgrade (LC)		
	Restricted Funds	125,000	
bn.	Freeze-Thaw Apparatus		
	Restricted Funds	100,000	
bo.	Gas Analyzer		
	Restricted Funds		100,000
bp.	Gas Chromatography - Mass Spectrophotometer System		
	Restricted Funds	210,000	
bq.	Gas Chromatography\Atomic Emission Detector		
	Restricted Funds	120,000	
br.	General Chemistry Computerization (LC)		
	Restricted Funds		385,000
bs.	General Purpose Computing (LC)		
	Restricted Funds	440,000	
bt.	High Power CO2 Laser		
	Restricted Funds	250,000	
bu.	High Resolution Mass Spectrometer		
	Restricted Funds	776,000	
bv.	High Resolution STEM 400KV		
	Restricted Funds	1,500,000	

bw.	High Temperature Optical Microscope		
	Restricted Funds	105,000	
bx.	High Volume Copier (Lease/Purchase)		
	Restricted Funds		150,000
by.	High-Temperature X-Ray Diffractometer		
	Restricted Funds	225,000	
bz.	Holographic System w/Image Analyzer		
	Restricted Funds	110,000	
ca.	Hybrid 400 AMU MS/MS Module		
	Restricted Funds	200,000	
cb.	Hydro Flume		
	Restricted Funds	130,000	
cc.	IR Spectrometer		
	Restricted Funds	100,000	
cd.	Image Analysis System		
	Restricted Funds	200,000	
ce.	Image Analyzer		
	Restricted Funds	250,000	
cf.	Image Analyzer System		
	Restricted Funds	100,000	
cg.	Image Processor		
	Restricted Funds		250,000
ch.	Inductively Coupled Plasma Spectrometer (ICP-MS)		
	Restricted Funds		200,000
ci.	Integrated TGA/Differential Scanning Calorimeter/MS		
	Restricted Funds	120,000	
cj.	Interactive Laser Cytometer and Microscope		
	Restricted Funds	380,000	
ck.	Inverted Microscope		
	Restricted Funds	100,000	
cl.	Language Lab (LC)		
	Restricted Funds	300,000	
cm.	Large Offset Printing Press		
	Restricted Funds	380,000	
cn.	Laser		
	Federal Funds	127,000	
co.	Laser Confocal Microscope		
	Restricted Funds	300,000	
cp.	Laser System for Atomic Physics		
	Restricted Funds	101,000	
	Federal Funds	42,000	
	Total	143,000	
cq.	Lighting Systems		
	Restricted Funds	237,000	
cr.	Marquee		
	Restricted Funds	100,000	
cs.	Mass Spectrometer		
	Restricted Funds	750,000	
ct.	Microscope		

	Federal Funds	120,000	
cu.	Microscope with Accessories		
	Restricted Funds	100,000	
cv.	Minicomputer Upgrade (RGS)		
	Restricted Funds	500,000	
cw.	Mining Engineering: Stiff/Testing Machine		
	Restricted Funds	140,000	
cx.	Motion Analysis System Upgrade		
	Restricted Funds	204,000	
cy.	NSF File Server for Arts and Sciences (LC)		
	Restricted Funds	150,000	
cz.	Network Replacement (LC)		
	Restricted Funds	100,000	
da.	Networked Printers (IS - Lease Purchase)		
	Restricted Funds		200,000
db.	New Workstation Laboratory (LC)		
	Restricted Funds	600,000	
dc.	Operator Directory Support System (IS - Lease/Purchase)		
	Restricted Funds		200,000
dd.	Optical Disk Server for Engineering (LC)		
	Restricted Funds	180,000	
de.	Postal Sorting Equipment (Lease/Purchase)		
	Restricted Funds	300,000	
df.	Printing Systems and Services (IS - Lease/Purchase)		
	Restricted Funds		250,000
dg.	Recording Studio Equipment		
	Restricted Funds	127,000	
dh.	Research Building Controlled Access System		
	Restricted Funds	200,000	
di.	Research Computing Upgrade (IS - Lease/Purchase)		
	Restricted Funds		1,200,000
dj.	Rural Health Telecommunications		
	Restricted Funds	636,000	
dk.	SMDS Interface for ATT/5ESS (IS - Lease/Purchase)		
	Restricted Funds		150,000
dl.	SPARC/SUN Server Upgrade (IS)		
	Restricted Funds	150,000	
dm.	Scanning Electron Microscope		
	Restricted Funds	500,000	
dn.	Solids NMR Spectrometer		
	Restricted Funds		900,000
do.	Stereolithography SLA-500		
	Restricted Funds	250,000	
dp.	Sterilizing/Cleaning System		
	Restricted Funds	234,000	
dq.	Storage Management System (IS - Lease/Purchase)		
	Restricted Funds		300,000
dr.	Studio Recording Equipment		

	Restricted Funds	113,000	
ds.	Super Computer Upgrade (IS - Lease/Purchase)		
	Restricted Funds	5,000,000	
dt.	TEM/Holography		
	Restricted Funds		1,200,000
du.	Thermogravimetric Experimental Station		
	Restricted Funds	120,000	
dv.	Tinius Olsen Ductometer		
	Restricted Funds	100,000	
dw.	Token Ring and Computer System (MC)		
	Restricted Funds	200,000	
dx.	Ultracentrifuge		
	Federal Funds	110,000	
dy.	Unix Computer		
	Restricted Funds	600,000	
dz.	Virtual Reality System (MC)		
	Restricted Funds	212,000	
ea.	Whole Body Composition Analyzer (TOBEC)		
	Restricted Funds	136,000	
eb.	X-Ray Fluorescence System		
	Restricted Funds	175,000	
ec.	X-Ray Laue Unit - Single Crystal		
	Restricted Funds	150,000	
ed.	College of Medicine Clinical/Educational - Leased Space		
ee.	College of Medicine Clinical/Teaching - Leased Space		
ef.	College of Pharmacy - Leased Space		
eg.	Hazard - Leased Space		
eh.	Aging/Allied Health Building		
	Federal Funds	11,000,000	
	Restricted Funds	6,000,000	
	Total	17,000,000	

The $17,000,000 in initial Phase I funds authorized by this line item are provided for the following project phases including, but not limited to, design, programming, site acquisition, and site preparation.

9.	University of Kentucky Community College System		
a.	Ashland - Business Office/Student Services		
	Restricted Funds		350,000
b.	Ashland - Classroom Building		
	Bond Funds	4,500,000	
c.	Handicapped Access		
	Restricted Funds	700,000	
d.	Hazard - Student/Performing Arts Center Phase I		
	Restricted Funds	2,000,000	
	Federal Funds	1,500,000	
	Bond Funds	10,000,000	
	Total	13,500,000	
e.	Hazard - Student/Performing Arts Center Phase II		
	Federal Funds	4,000,000	
f.	Jefferson DT - Culinary Arts Renovation		
	Restricted Funds	300,000	

	g.	Jefferson DT - JF Building Renovation Phase I		
		Restricted Funds	500,000	
	h.	Leased Space - Lexington Community College		
	i.	Lexington - Oswald Building Renovation		
		Restricted Funds		320,000
	j.	Life/Safety/Environmental Health		
		Restricted Funds	2,415,000	
	k.	Madisonville - Academic/Technical Building North Renovation		
		Restricted Funds		350,000
	l.	Madisonville - Student/Auditorium Parking-Additional		
		Restricted Funds	280,000	
	m.	Paducah - Crisp Building Renovation-Additional		
		Restricted Funds	20,000	
	n.	Somerset - Stoner Hall HVAC Renovation		
		Restricted Funds	250,000	
	o.	Southeast - Falkenstein Hall Renovation Phase I		
		Restricted Funds		400,000
	p.	Ashland - Computer Upgrade (Lease/Purchase)		
		Restricted Funds	300,000	
	q.	Hazard - Computer Upgrade		
		Restricted Funds		200,000
	r.	Henderson - Computer Upgrade		
		Restricted Funds	200,000	
	s.	Hopkinsville - Computer Upgrade		
		Restricted Funds		200,000
	t.	Madisonville - Computer Upgrade		
		Restricted Funds		200,000
	u.	Prestonsburg - Computer Upgrade		
		Restricted Funds		200,000
	v.	System Office - Computer Upgrade		
		Restricted Funds	200,000	
	w.	System Office - Student Records Software		
		Restricted Funds	200,000	
10.	University of Kentucky Hospital			
	a.	AMS Diagnostic Radiology		
		Restricted Funds	1,442,000	
	b.	Building Connectors		
		Restricted Funds		2,200,000
	c.	Building/Site Upgrade		
		Restricted Funds		710,000
	d.	Cardiac Catheterization Lab-Additional		
		Restricted Funds	1,500,000	
	e.	Critical Care Center Shell-Additional		
		Restricted Funds	400,000	
	f.	Diagnostic Radiology and Ancillary Services		
		Restricted Funds	2,220,000	
	g.	Diagnostic Services Upgrade VI		
		Restricted Funds	900,000	

h.	Hospital Kitchen Renovation I		
	Restricted Funds		1,000,000
i.	Hospital Parking Expansion		
	Restricted Funds		3,000,000
j.	Housestaff Quarters Renovation		
	Restricted Funds	466,000	
k.	Implementation of Land Use Plan		
	Restricted Funds		2,200,000
l.	Limited Stay Facility-Additional		
	Restricted Funds		1,900,000
m.	Markey 4th Floor Renovation		
	Restricted Funds	3,800,000	
n.	Materials Handling Storage/Distribution Center-Additional		
	Restricted Funds	100,000	
o.	Nursing Unit Modification V		
	Restricted Funds	900,000	
p.	Parking Structure		
	Restricted Funds		5,600,000
q.	Pediatric Facility Enhancement		
	Restricted Funds	3,800,000	
r.	Radiation Medicine Clinical Upgrade		
	Restricted Funds	1,800,000	
s.	Safety/Bio/Environmental Protection II		
	Restricted Funds		2,200,000
t.	Transportation Systems II		
	Restricted Funds		580,000
u.	Utility System Upgrade I		
	Restricted Funds		1,500,000
v.	ALIS System		
	Restricted Funds	135,000	
w.	Ambulance (Emergency Transport Vehicle)		
	Restricted Funds	120,000	
x.	Anesthesia Information System		
	Restricted Funds	500,000	
y.	Automated Cytogenetics System		
	Restricted Funds	120,000	
z.	Automated Screening System		
	Restricted Funds	200,000	
aa.	Balance System		
	Restricted Funds		150,000
ab.	Breast Radiographic		
	Restricted Funds		110,000
ac.	CT Scanner		
	Restricted Funds	1,650,000	
ad.	CT Scanner		
	Restricted Funds	1,600,000	
ae.	Cardiac and Thyroid Imaging		
	Restricted Funds		250,000
af.	Cardiac Echo System		

	Restricted Funds	300,000	
ag.	Cardiac Laser		
	Restricted Funds	250,000	
ah.	Cardiac Stress Equipment		
	Restricted Funds		175,000
ai.	Cardiac Ultrasound		
	Restricted Funds	350,000	
aj.	Chemistry Analyzer		
	Restricted Funds	250,000	
ak.	Chemistry Lab System		
	Restricted Funds	300,000	
al.	Chest Imaging System		
	Restricted Funds		240,000
am.	Cine Film Processor		
	Restricted Funds		150,000
an.	Clinical Information Systems		
	Restricted Funds	4,000,000	1,200,000
ao.	Digital Imaging System		
	Restricted Funds	1,800,000	
ap.	Digital Record Storage		
	Restricted Funds	350,000	
aq.	EEG-EMG Equipment		
	Restricted Funds	200,000	
ar.	Echocardiography Equipment		
	Restricted Funds		300,000
as.	Echoplanar		
	Restricted Funds		850,000
at.	Electrophysiology Laboratory		
	Restricted Funds	450,000	
au.	Endoscopic Fluoroscopy		
	Restricted Funds	450,000	
av.	Endoscopic System		
	Restricted Funds	100,000	
aw.	Endoscopic Ultrasound		
	Restricted Funds	250,000	
ax.	Endoscopy Ultrasound		
	Restricted Funds		250,000
ay.	Endoscopy Video		
	Restricted Funds		175,000
az.	Film Processing Unit		
	Restricted Funds		320,000
ba.	Fluoro System		
	Restricted Funds	300,000	
bb.	Fluoroscopic Unit		
	Restricted Funds	550,000	
bc.	Gamma Knife Upgrade		
	Restricted Funds	500,000	
bd.	General Angiographic System		

	Restricted Funds	1,950,000	
be.	Head and Facial Radiographic Imaging		
	Restricted Funds		250,000
bf.	Hematology Analyzer		
	Restricted Funds	300,000	
bg.	Hyperbaric Chamber		
	Restricted Funds	150,000	
bh.	Hyperthermia Unit		
	Restricted Funds	250,000	
bi.	Imaging Networking System		
	Restricted Funds	250,000	
bj.	Implant Unit		
	Restricted Funds	340,000	
bk.	Intravascular Echocardiographic Equipment		
	Restricted Funds		200,000
bl.	Intravascular Ultrasound		
	Restricted Funds	200,000	
bm.	Linear Accelerator		
	Restricted Funds	1,650,000	
bn.	MRI System Upgrade		
	Restricted Funds		250,000
bo.	MRI System Upgrade		
	Restricted Funds	850,000	
bp.	Mammography Imaging System		
	Restricted Funds	205,000	
bq.	Mass Storage Capability		
	Restricted Funds	300,000	300,000
br.	Microbial Identification System		
	Restricted Funds	125,000	
bs.	Mobile Imaging Units		
	Restricted Funds		150,000
bt.	Multiphasic Chemistry Analyzer		
	Restricted Funds	200,000	
bu.	Neuroangiographic System		
	Restricted Funds	2,550,000	
bv.	Neurology EMG/EEG Analyzer		
	Restricted Funds	175,000	
bw.	Nuclear Medicine Camera		
	Restricted Funds	550,000	
bx.	Nuclear Medicine Camera		
	Restricted Funds		500,000
by.	Nursing Information Systems		
	Restricted Funds	2,500,000	500,000
bz.	OB Diagnostic Equipment		
	Restricted Funds	300,000	
ca.	OB Diagnostic System		
	Restricted Funds		350,000
cb.	OB Surgical Laser		
	Restricted Funds		100,000

cc.	Ophthalmic Laser		
	Restricted Funds	150,000	
cd.	Oxygen Consumption		
	Restricted Funds		100,000
ce.	PET and Cyclotron System		
	Restricted Funds	7,000,000	
cf.	Patient Collection system		
	Restricted Funds	200,000	
cg.	Pharmaceutical Automated Dispensing System		
	Restricted Funds	200,000	
ch.	Physiologic/Digital Recording System		
	Restricted Funds	400,000	
ci.	Portable Fluoroscopy/Radiology Unit		
	Restricted Funds	150,000	
cj.	Pulmonary Function System		
	Restricted Funds	150,000	
ck.	Radiographic Imaging System		
	Restricted Funds		450,000
cl.	Radiographic Unit		
	Restricted Funds		1,800,000
cm.	Radiographic Unit		
	Restricted Funds	400,000	
cn.	Radiographic/Fluoroscopic System		
	Restricted Funds		590,000
co.	Radiologic Imaging System		
	Restricted Funds	500,000	
cp.	Radiology Film Processing Units		
	Restricted Funds	160,000	
cq.	Radiology Information System		
	Restricted Funds	800,000	
cr.	Rapid Microbial System		
	Restricted Funds		113,000
cs.	Respiratory Management System		
	Restricted Funds		150,000
ct.	Sleep Lab		
	Restricted Funds		375,000
cu.	Surgical Endoscopic System		
	Restricted Funds	150,000	
cv.	Surgical Endoscopic System		
	Restricted Funds		150,000
cw.	Surgical Laser		
	Restricted Funds	200,000	
cx.	Surgical Microscope		
	Restricted Funds		250,000
cy.	Surgical Microscope		
	Restricted Funds	250,000	
cz.	Time and Attendance System		
	Restricted Funds	400,000	

da.	Toxicology Analyzer		
	Restricted Funds	150,000	
db.	Treatment Planning System		
	Restricted Funds	780,000	
dc.	Ultrasound System		
	Restricted Funds	400,000	
dd.	Upgrade Administrative Office Systems		
	Restricted Funds	300,000	300,000
de.	Upgrade Disk Capacity		
	Restricted Funds	950,000	350,000
df.	Upgrade HIS Computing Facilities		
	Restricted Funds	3,500,000	
dg.	Upgrade Materials Management Systems		
	Restricted Funds	1,000,000	
dh.	Upgrade Printing Capacity		
	Restricted Funds	440,000	
di.	Upgrade Tape Capacity		
	Restricted Funds	230,000	230,000
dj.	Upgrade Telecommunication Facilities		
	Restricted Funds	500,000	500,000
dk.	Vascular Diagnostic Equipment		
	Restricted Funds	200,000	
dl.	Vascular Ultrasound		
	Restricted Funds	400,000	
dm.	Whole Body Imaging System		
	Restricted Funds		450,000
dn.	Prestonsburg - Classroom/Wellness Center		
	Bond Funds		8,500,000

The sale of bonds for this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

do.	Prestonsburg - Pikeville Classroom Building-Planning/Design		
	General Fund		100,000
dp.	Southeast - Academic/Technical Building-Planning/Design		
	General Fund		250,000
11.	UNIVERSITY OF LOUISVILLE		
a.	Americans with Disabilities Act (ADA) Project Pool		
	Restricted Funds	8,588,000	
b.	Cardinal Hall Demolition		
	Restricted Funds		250,000
c.	Chemistry Building Ventilation System		
	Restricted Funds	270,000	
d.	Chlorofluorocarbon Project Pool		
	Restricted Funds	3,099,000	
e.	Davidson Hall Renovation		
	Restricted Funds		1,386,000
f.	Education Learning Resource Center		
	Restricted Funds	1,343,000	

g.	Founder's Union Renovation		
	Restricted Funds	609,000	
h.	Hurstborne Lane Access Road for Shelby Campus		
	Restricted Funds	750,000	
i.	J. B. Speed Renovation		
	Restricted Funds	2,683,000	
j.	Life Sciences Research Labs Renovation		
	Restricted Funds	375,500	
	Federal Funds	375,500	
	Total	751,000	
k.	Life and Fire Safety Pool		
	Restricted Funds	3,546,000	
l.	Medical/Dental Research Building Renovation - Phase II		
	Restricted Funds	460,000	
m.	Multi-Cultural Center Building		
	Restricted Funds	1,307,000	
n.	Natural Sciences (Rebuild Parapet Walls)		
	Federal Funds	476,000	
o.	Natural Sciences Renovation		
	Restricted Funds	2,847,000	
p.	Oppenheimer Hall Renovation		
	Restricted Funds	1,110,000	
q.	Pediatric Office Facility		
	Restricted Funds	11,075,000	
r.	Property for Support Services		
	Restricted Funds	830,000	
s.	Replace Roof - 55A (Medicine)		
	Restricted Funds	217,000	
t.	Replace Roof - 55C (Dentistry)		
	Restricted Funds	271,000	
u.	Research Building (HSC) - Phase I		
	Bond Funds		14,000,000

The sale of bonds for this project shall occur after January 1,1995. Annual debt service is provided in fiscal year 1995-96.

v.	Sprinkler Systems - Buildings 48, 51, 52, and 55A		
	Restricted Funds	1,248,000	
w.	Steam and Chilled Water Plant		
	Restricted Funds	4,162,000	
x.	Support Services Land Acquisition (Northeast)-Additional		
	Restricted Funds	286,000	
y.	University Park - Track and Field, Soccer, and Field Hockey Facility-Additional		
	Restricted Funds	2,258,000	
z.	University Center Renovation - Phase III		
	Restricted Funds	4,314,000	
aa.	University Club Courtyard Enclosure and Expansion-Additional		
	Restricted Funds	439,000	

ab.	University Park - Field House-Additional		
	Restricted Funds	921,000	
ac.	University Park - Natatorium-Additional		
	Restricted Funds		970,000
ad.	200 MHz Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds		85,000
	Federal Funds		85,000
	Total		170,000
ae.	300 MHz Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds	120,000	
	Federal Funds	120,000	
	Total	240,000	
af.	47 Passenger Highway Bus		
	Restricted Funds	225,000	
ag.	600 MHz Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds		600,000
	Federal Funds		600,000
	Total		1,200,000
ah.	Animal Irradiator		
	Restricted Funds	154,000	
ai.	Argon Ion Laser		
	Restricted Funds	50,000	
	Federal Funds	50,000	
	Total	100,000	
aj.	Array Processor		
	Restricted Funds	155,000	
ak.	Athletic Team Bus		
	Restricted Funds	200,000	
al.	Automated DNA Sequencer		
	Restricted Funds	105,000	
am.	Automatic Guided Vehicle System		
	Restricted Funds	131,000	
an.	Beta Editing System		
	Restricted Funds	120,000	
ao.	Broadcasting Facilities System		
	Restricted Funds		212,500
	Federal Funds		212,500
	Total		425,000
ap.	CT Scanner, Therapy Simulator		
	Restricted Funds		1,200,000
aq.	Campus Video Communications Network		
	Restricted Funds		200,000
ar.	Capillary Electrophoresis System		
	Restricted Funds	50,000	
	Federal Funds	50,000	
	Total	100,000	
as.	Color Imaging Equipment		
	Restricted Funds		150,000
at.	Color Imaging Equipment		

	Restricted Funds	100,000	
au.	Color Output Device		
	Restricted Funds	125,000	
av.	Color Output Device		
	Restricted Funds		125,000
aw.	Communications Processor		
	Restricted Funds	500,000	
ax.	Communications Processor		
	Restricted Funds		300,000
ay.	Computer File Server		
	Restricted Funds		200,000
az.	Computer File Server		
	Restricted Funds	200,000	
ba.	Computer Graphics Output Device		
	Restricted Funds		100,000
bb.	Computer Graphics Output Device		
	Restricted Funds	100,000	
bc.	Computer Processing System (lease/purchase)		
	Restricted Funds	1,650,000	1,650,000
bd.	Confocal Fluorescence Microscope		
	Federal Funds	160,000	
be.	Confocal Microscope		
	Restricted Funds	160,000	
bf.	DASD/Disk Drive		
	Restricted Funds	160,000	
bg.	DNA Sequencer		
	Restricted Funds	105,000	
bh.	Dedicated Vascular System		
	Restricted Funds		300,000
bi.	Digital Communications Network		
	Restricted Funds		250,000
bj.	Digital Communications Network		
	Restricted Funds	650,000	
bk.	Digital Fluorescence Angiography System		
	Restricted Funds		105,000
bl.	Digital Microwave Network		
	Restricted Funds	200,000	
bm.	Digital Microwave Network		
	Restricted Funds		200,000
bn.	Diode Laser		
	Restricted Funds		100,000
bo.	Dynamic Mechanical Spectroscope		
	Restricted Funds	102,000	
bp.	Electron Paramagnetic Resonance Spectrometer		
	Restricted Funds	150,000	
	Federal Funds	150,000	
	Total	300,000	
bq.	Electrophysiology Laboratory System		

	Restricted Funds		150,000
br.	Engineering/Scientific Processor Upgrades		
	Restricted Funds		300,000
bs.	Engineering/Scientific Processor Upgrades		
	Restricted Funds	600,000	
bt.	Environmental Scanning Microscope		
	Restricted Funds		250,000
bu.	Fast Atom Bombardment Mass Spectrometer		
	Restricted Funds	300,000	
	Federal Funds	300,000	
	Total	600,000	
bv.	Fiber Optic LAN/Computer-Based Instruction System		
	Restricted Funds	427,000	
bw.	File Server		
	Restricted Funds		150,000
bx.	File Server		
	Restricted Funds	150,000	
by.	Fluorescence-Activated Cell Sorter (FACS)		
	Restricted Funds		350,000
bz.	Fourier Transform Infra-red Spectrophotometer		
	Restricted Funds	105,000	
ca.	Fourier Transform Infra-red and Raman Spectrometer		
	Restricted Funds	92,000	
	Federal Funds	92,000	
	Total	184,000	
cb.	Gamma Irradiator		
	Restricted Funds	110,000	
cc.	Gas Chromatograph/Mass Spectrometer		
	Restricted Funds	85,000	
	Federal Funds	85,000	
	Total	170,000	
cd.	High Definition Video System		
	Restricted Funds		300,000
	Federal Funds		200,000
	Total		500,000
ce.	High Speed Duplicators		
	Restricted Funds	250,000	
cf.	High Speed Duplicators		
	Restricted Funds		250,000
cg.	High Volume Laser Printer System		
	Restricted Funds	400,000	
ch.	High Volume Laser Printer System		
	Restricted Funds		400,000
ci.	Image Analysis/Radioactive Imaging		
	Restricted Funds		100,000
cj.	Inter-Campus Compressed Video		
	Restricted Funds		175,000
ck.	Inter-Campus Compressed Video		
	Restricted Funds	175,000	

cl.	Interactive Laser Cytometer and Confocal Microscope System		
	Restricted Funds	325,000	
cm.	Laser Ablation Unit		
	Restricted Funds		230,000
cn.	Laser Disk Retrieval System		
	Restricted Funds	410,000	
co.	Laser Fluorimetry		
	Restricted Funds	109,000	
cp.	Laser Raman Spectrometer		
	Restricted Funds	90,000	
	Federal Funds	90,000	
	Total	180,000	
cq.	Liquid Chromatograph/Mass Spectrometer Data System		
	Restricted Funds	300,000	
cr.	Liquid Chromatograph/Mass Spectrometer Data System		
	Restricted Funds	300,000	
cs.	Liquid Scintillation Analysis System		
	Restricted Funds		143,000
ct.	Load Application System		
	Restricted Funds	203,000	
cu.	Local Area Network		
	Restricted Funds	110,000	
cv.	Low Energy Linear Accelerator		
	Restricted Funds		1,300,000
cw.	Mail Processing System		
	Restricted Funds		300,000
cx.	Mainframe Imaging System		
	Restricted Funds	200,000	
cy.	Mainframe Imaging System		
	Restricted Funds		100,000
cz.	Mainframe Memory		
	Restricted Funds	332,000	
da.	Mass Storage System		
	Restricted Funds	500,000	
db.	Materials Testing System		
	Restricted Funds	185,000	
dc.	Microvessel Image Processing System		
	Restricted Funds		215,000
dd.	Microwave Communications Systems		
	Restricted Funds	100,000	
de.	Mid-Range Computer System		
	Restricted Funds	400,000	
df.	Mid-Range Computer System		
	Restricted Funds		200,000
dg.	Mini-Computer		
	Restricted Funds	130,000	
dh.	Miniload AS/AR System		
	Restricted Funds		232,000

di.	Molecular Dynamics Software and Computer Workstation		
	Restricted Funds	125,000	
dj.	Multi-Media Classrooms		
	Restricted Funds	225,000	
dk.	Multi-Media Classrooms		
	Restricted Funds		225,000
dl.	Novel Separation Methods		
	Restricted Funds		100,000
dm.	Optical Rotatory Dispersion/Cir. Dichroism Spectrophotometer		
	Restricted Funds		50,000
	Federal Funds		50,000
	Total		100,000
dn.	Parallel Computing System		
	Restricted Funds		154,000
do.	Peptide Sequencer		
	Restricted Funds		140,000
dp.	Practice Pipe Organ		
	Restricted Funds		100,000
dq.	Preparative Liquid Chromatograph		
	Restricted Funds	50,000	
	Federal Funds	50,000	
	Total	100,000	
dr.	Protein Sequencer		
	Restricted Funds	120,000	
ds.	RISC-Based Graphics Workstation		
	Restricted Funds		150,000
dt.	RISC-Based Graphics Workstation		
	Restricted Funds	150,000	
du.	Radio System		
	Restricted Funds	250,000	
dv.	Radiographic/Fluoroscopic Imaging Unit		
	Restricted Funds	165,000	
dw.	Radiographic/Fluoroscopic X-Ray System		
	Restricted Funds	250,000	
dx.	Rapid Prototyping System		
	Restricted Funds		150,000
dy.	Relaxation Map Analysis/Thermal Stimulated Current		
	Restricted Funds		134,000
dz.	Satellite Uplink		
	Restricted Funds	150,000	
ea.	Scanning Electron Microscope		
	Restricted Funds	290,000	
eb.	Scanning Tunneling Microscope		
	Restricted Funds		50,000
	Federal Funds		50,000
	Total		100,000
ec.	Scanning Tunneling Microscope		
	Restricted Funds	140,000	
ed.	Scanning Tunneling/Atomic Form Microscope		

	Restricted Funds	100,000	
ee.	Scientific Computing Research Equipment - NSF		
	Restricted Funds	70,000	
	Federal Funds	70,000	
	Total	140,000	
ef.	Servohydraulic Biaxial Mechanical Instrument		
	Restricted Funds	125,000	
eg.	Silicon Detector System		
	Restricted Funds	140,000	
eh.	Small Artery Reactivity Diagnostic System		
	Restricted Funds	131,000	
ei.	Small Vein Leakage Diagnosis System		
	Restricted Funds	128,000	
ej.	Solid-Phase Peptide Synthesizer		
	Restricted Funds	50,000	
	Federal Funds	50,000	
	Total	100,000	
ek.	Specialized Central Processing Unit		
	Restricted Funds	500,000	
el.	Spitz Star Projector		
	Restricted Funds	300,000	
em.	Sputtering Unit		
	Restricted Funds		150,000
en.	Stereolithography Machine		
	Restricted Funds	350,000	
eo.	Student Information System		
	Restricted Funds		1,000,000
ep.	Studio Television Cameras		
	Restricted Funds	300,000	
eq.	Sub-picosecond Streak Camera		
	Restricted Funds	186,000	
er.	Superconducting NMR Magnet		
	Restricted Funds		162,000
es.	Teaching Grade NMR Spectrometer		
	Restricted Funds		75,000
	Federal Funds		75,000
	Total		150,000
et.	Telecommunications System		
	Restricted Funds		2,000,000
eu.	Training Labs		
	Restricted Funds	200,000	
ev.	Training Labs		
	Restricted Funds		100,000
ew.	Transputer-Based Graphics Workstation		
	Restricted Funds		100,000
ex.	Trash Compactor Truck		
	Restricted Funds	100,000	
ey.	UV - Visible - Near IR Spectrophotometer		

	Restricted Funds		50,000
	Federal Funds		50,000
	Total		100,000
ez.	Ultra High Vacuum Chamber		
	Restricted Funds		300,000
fa.	Ultra-fast Tuneable Dye Laser		
	Restricted Funds	250,000	
fb.	VLIW-Based Graphics Workstation		
	Restricted Funds	150,000	
fc.	Vascular Smooth Muscle Cell Analyzer		
	Restricted Funds	137,000	
fd.	Vector Processor		
	Restricted Funds	425,000	
fe.	Video Diagnostic Development		
	Restricted Funds		154,000
ff.	Visualization Laboratory		
	Restricted Funds	111,000	
fg.	Voice Automation Enhancements		
	Restricted Funds		200,000
fh.	Voice Mail System		
	Restricted Funds	400,000	
fi.	X-Ray Diffractometer		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	Total	200,000	
12.	WESTERN KENTUCKY UNIVERSITY		
a.	Agriculture Exposition Center - HVAC-Additional		
	Restricted Funds	350,000	
b.	Campus Facilities Audit		
	Restricted Funds		208,000
c.	E & G Accessibility Projects		
	Restricted Funds	3,950,000	
d.	Exterior Renovations - E & G Buildings		
	Restricted Funds	575,000	217,000
e.	High Voltage Underground Distribution System		
	Restricted Funds	676,000	
f.	Life/Safety Improvements		
	Restricted Funds	530,000	
g.	Renovation of Academic-Athletic Building No. 1 - Phase I		
	Restricted Funds		1,500,000
h.	Repair/Replacement of Walks, Parking Lots, Etc.		
	Restricted Funds		312,000
i.	Roof Replacement Projects		
	Restricted Funds		184,000
j.	Steam Line Replacement		
	Restricted Funds	620,000	
k.	Thompson Complex-Center Wing Fume Hood Replacement		
	Restricted Funds		957,000
l.	Window Replacement - Cherry Hall-Additional		

	Restricted Funds	30,000	
m.	Additional Processors for Vax 6400 Lease/Purchase		
	Restricted Funds	125,000	
n.	Disk Drives for IBM Mainframe		
	Restricted Funds		160,000
o.	Electronic Classroom Lease/Purchase		
	Restricted Funds		250,000
p.	Electronic Photography Laboratory		
	Restricted Funds	298,000	
q.	IBM Mainframe Model Upgrade Lease/Purchase		
	Restricted Funds		350,000
r.	Laser Printer Lease/Purchase		
	Restricted Funds		115,000
s.	Memory and Channels Upgrade - IBM Mainframe Lease/Purchase		
	Restricted Funds	150,000	
t.	Molecular Biology Purification System		
	Restricted Funds	100,000	
u.	Satellite Video Uplink Lease/Purchase		
	Restricted Funds	350,000	
v.	Scanning Electron Microscope		
	Restricted Funds		100,000
w.	Sealed Tube Neutron Generator		
	Restricted Funds		150,000
x.	Shuttle Buses Lease/Purchase		
	Restricted Funds	300,000	
y.	Street Cleaner Lease/Purchase		
	Restricted Funds	125,000	
z.	Upgrade VAX 6400 to Alpha Technology Lease/Purchase		
	Restricted Funds		450,000
aa.	Voice Messaging Lease/Purchase		
	Restricted Funds	300,000	
ab.	X-Ray Photoelectron Spectroscopy Auger Electron Surface Analysis System		
	Restricted Funds		180,000
ac.	Thompson Science Complex Renovation		
	Bond Funds		760,000

The sale of this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

ad.	Agricultural Exposition Center Renovation		
	Bond Funds		350,000

The sale of this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

ae.	Diddle Academic - Athletic Air Conditioning		
	Bond Funds		1,500,000

The sale of this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

af.	Married Student Housing		
	Bond Funds		2,450,000

The sale of this project shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

G. HUMAN RESOURCES

Budget Unit	1994-95	1995-96
1. Administration and Program Support (Office of Administrative Services)		

a. Miscellaneous Projects		
General Fund		400,000
Investment Income	400,000	
b. Human Services Construction Pool (Additional Budget)		
Bond Funds	1,000,000	
c. Campbell County - Leased Space		
d. Franklin County - Leased Space		
e. Franklin County - Leased Space		
f. Hardin County - Leased Space		
g. Warren County - Leased Space		
2. Department for Health Services		
a. Atomic Absorption Spectrometer with Furnace		
General Fund	119,000	
3. Department for Mental Health/Mental Retardation		
a. Miscellaneous Projects		
General Fund		400,000
Investment Income	400,000	
b. Glasgow ICF Window Replacement		
Capital Construction Surplus (1993-94 - $500,000)		
c. Hazelwood ICF/MR Replacement		
1. Hazelwood Project-Reauthorization		
2. 15 Non-Medical Group Homes-Additional Budget		
Bond Funds	2,775,000	
4. Department of Employment Services		
a. Unemployment Insurance Scanner		
Federal Funds		925,000
5. Department for Social Services		
a. Miscellaneous Projects		
General Fund		300,000
Investment Income	300,000	
b. Central Kentucky Re-ed-Reauthorization		
c. THE WORKERS INFORMATION SYSTEM (TWIST)		
Restricted Funds	806,000	2,436,000
Federal Funds	2,419,000	7,306,000
Total	3,225,000	9,742,000

H. JUSTICE CABINET

Budget Unit	1994-95	1995-96
1. Department of State Police		
a. *Law Information Network of Kentucky		
Bond Funds	3,150,000	
b. Minor Projects Fund		
Investment Income	150,000	150,000
c. Laboratory Information Management System		
Federal Funds	572,000	150,000
d. Bulk Tank Removal/Replacement		
General Fund	200,000	
2. Department of Corrections		
a. *Kentucky State Reformatory-Renovation/Expansion		

	of Unit E to Mental Health Dormitory-Design Only		
	Bond Funds	453,000	
b.	*Luther Luckett Correctional Complex - New Roof for Buildings 7D, 7E, 4A, 4B, 4C, 4D, and 4E		
	Bond Funds	676,000	
c.	*Roederer Correctional Complex - New Roof for Main Building		
	Bond Funds	375,000	
d.	*Bell County Forestry Camp - Sewage Plant Expansion/ Drying Beds		
	Bond Funds	660,000	
e.	*Kentucky Correctional Institution for Women - New 40-Bed Segregation Unit		
	Bond Funds	2,829,000	
f.	*Luther Luckett Correctional Complex - Air Circulation Replacement/Repair-Dorms 7A, 7B, 7C, 7D, and 7E		
	Bond Funds	642,000	
g.	*Secure Juvenile Detention Facility-Eastern Kentucky		
	Bond Funds	1,543,000	
h.	Correctional Industries/Tractor Trailer		
	Restricted Funds	120,000	
i.	Correctional Industries/Powder Coat Painting System		
	Restricted Funds	150,000	
j.	Jefferson County Office Space Lease-Jefferson County Probation and Parole Office		
k.	Miscellaneous Maintenance		
	Investment Income	1,000,000	1,000,000
l.	*Blackburn Correctional Complex - New Sewage Treatment Plant-Reauthorization		

*Bond projects which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium so that preliminary work on the projects may proceed. However, debt service has been included beginning in fiscal year 1995-96. Therefore, the sale of these bonds shall occur after January 1, 1995.

I. LABOR

Budget Unit			1994-95	1995-96
1.	Office of the Secretary			
	a.	Computer Imaging System		
		Restricted Funds	417,400	362,000
	b.	Franklin County Lease		
2.	Department of Workers' Claims			
	a.	Franklin County Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit			1994-95	1995-96
1.	Department for Environmental Protection			
	a.	Gas Chromatograph/Mass Spectrometer (2)		
		General Fund	81,000	
	b.	Inductively Coupled Plasma Spectrometer		
		General Fund	44,000	
	c.	Atomic Absorption Spectrometer		

		General Fund	27,000	
	d.	High Performance Liquid Chromatograph		
		General Fund	4,000	
	e.	State-Owned Dam Repair-Reauthorization		
		General Fund		
		Additional	500,000	500,000
	f.	State-Funded Leaking Underground Storage Tanks - Reauthorization		
		Restricted Funds		
		Additional	500,000	500,000
	g.	Hazardous Waste Assessment Fund - Reauthorization		
		Restricted Funds		
		Additional	2,100,000	2,100,000
	h.	Lease-Franklin County		
2.		Department for Surface Mining Reclamation and Enforcement		
	a.	Lease-Franklin County		
3.		Office of the Secretary		
	a.	Kentucky Heritage Land Conservation Fund		
		Restricted Funds		
	b.	VAX Upgrade		
		General Fund		200,000
4.		Kentucky Nature Preserves Commission		
	a.	Nature Preserves Acquisition Fund-Reauthorization		
		Restricted Funds		
		Additional	30,000	30,000
		General Fund		
		Additional	500,000	100,000
		Other Funds		
		Additional	500,000	
		Total	1,030,000	130,000
5.		Kentucky River Authority		
	a.	Locks and Dams-Construct/Purchase Reauthorization		
	b.	Renovation of Kentucky River Locks and Dams 5 through 14-Reauthorization		
		Federal Funds		
		Additional	5,000,000	

K. PUBLIC PROTECTION AND REGULATION

Budget Unit			1994-95	1995-96

For the major equipment purchase displayed in this section as restricted funds it is anticipated that these funds shall be transferred from the operating budget at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating budget appropriation.

1.		Department of Insurance		
	a.	Computer Imaging System		
		Restricted Funds	250,000	250,000
	b.	Franklin County Lease (Relocation)		

L. REVENUE

Budget Unit	1994-95	1995-96
1. Department of Administrative Services		
a. Auto Dialing Phone Collecting System		
General Fund	750,000	
b. Data Communication Infrastructure		
General Fund	880,000	450,000
c. Franklin County Lease: (Consolidation of Space)		
d. Franklin County Lease: (File Storage)		
2. Department of Tax Compliance		
a. Franklin County Lease: (Tax Receipts and Processing)		

M. TOURISM

Budget Unit	1994-95	1995-96

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

1. Kentucky State Fair Board		
a. Ashton-Adair Neighborhood Property Acquisition		
b. CCC Expansion and Renovation		
Bond Funds	25,000,000	
Other Funds	25,000,000	
Total	50,000,000	
c. Miscellaneous Major Maintenance		
Capital Construction Surplus	300,000	300,000
Restricted Funds	700,000	700,000
Total	1,000,000	1,000,000
d. Roof Replacement		
Restricted Funds	1,000,000	1,000,000
e. Surfacing and Repaving		
Restricted Funds	500,000	
2. Department of Fish and Wildlife Resources		
a. Land Acquisition		
Restricted Funds	1,000,000	1,000,000
b. Miscellaneous Minor Projects		
Restricted Funds	300,000	300,000
c. Computerized License Sales System		
Restricted Funds	1,015,000	1,015,000
3. Kentucky Horse Park		
a. Miscellaneous Major Maintenance		
Capital Construction Surplus	100,000	
Investment Income	250,000	250,000
Total	350,000	250,000
4. Department of Parks		
a. Audubon - Purchase of Audubonіana		
General Fund	2,503,000	
Other Funds	1,000,000	
Total	3,503,000	
b. Carr Fork - Lodge Design/Infrastructure Reauthorization/Additional		2,000,000
c. Lincoln Homestead - Golf Course/Park Improvements		

	Reauthorization		
d.	Miscellaneous Major Maintenance		
	Capital Construction Surplus		1,600,000
	Investment Income	3,700,000	2,100,000
	Total	3,700,000	3,700,000
e.	Pine Mountain - Upgrade Sewer Plan or City Connection		
	Reauthorization		
f.	Lost River-Infrastructure Development	610,000	
g.	Kincaid Lake-Lodge Design	432,500	
h.	Burchett Flat Recreational Area	250,000	
i.	Blue Licks-Multipurpose Building Expansion W/3 Guest Units		
	Reauthorization/Additional	2,352,200	
j.	Dale Hollow-Infrastructure and Lodge Completion		
	Reauthorization		
k.	Parks Revitalization Bond Project - Reauthorization		
1.	Barren River - Renovate Lodge Complex		
	Bond Funds	2,335,000	
2.	Ben Hawes - Golf Improvements		
	Bond Funds	460,000	
3.	Blue Licks - Museum Renovation		
	Bond Funds		215,000
4.	Blue Licks - Pool Replacement		
	Bond Funds	1,730,000	
5.	Bond Fund Contingency		
	Bond Funds	607,000	
6.	Breaks Interstate - Lodge Renovation		
	Bond Funds	215,000	
	Other Funds	215,000	
	Total	430,000	
7.	Buckhorn - City Water Connection		
	Bond Funds	400,000	
8.	Buckhorn - Marina Improvements		
	Bond Funds	760,000	
9.	Buckhorn - New Conference Center		
	Bond Funds		1,080,000
10.	Buckhorn - Renovate Lodge Complex		
	Bond Funds	2,055,000	
11.	Buckhorn - Waste Water Treatment Plant		
	Bond Funds	540,000	
12.	Carter Caves - Renovate Lodge Complex		
	Bond Funds	180,000	

Included in the Bond Funds above are the following purposes: $130,000 for HVAC Renovation and $50,000 for Window Replacement.

13.	Columbus-Belmont - Park Renovation		
	Bond Funds		370,000
14.	Constitution Square - Facilities Upgrade		

	Bond Funds		240,000
15.	Cumberland Falls - Community Pool Renovation		
	Bond Funds	605,000	
16.	General Butler - Conference Center		
	Bond Funds		1,570,000
17.	General Butler - Renovate Lodge Complex		
	Bond Funds	2,985,000	
18.	Greenbo - Community Pool		
	Bond Funds		1,730,000
19.	Greenbo - Renovate Lodge Complex		
	Bond Funds	1,190,000	
20.	Jefferson Davis - Visitors Center		
	Bond Funds		485,000
21.	Jenny Wiley - Boat Dock Replacement		
	Bond Funds	1,300,000	
22.	Jenny Wiley - Golf Course-Reauthorization		
	Bond Funds		
	Additional	6,679,000	
23.	Jenny Wiley - Renovate Lodge Complex		
	Bond Funds	4,230,000	
24.	Jenny Wiley - Upgrade Public Pool		
	Bond Funds	675,000	
25.	Kenlake - Renovate Lodge Complex		
	Bond Funds	1,190,000	
26.	Kenlake - Water and Sewer Line Replacement		
	Bond Funds	650,000	
27.	Kentucky Dam Village - Head Dock Replacement		
	Bond Funds	485,000	
28.	Kentucky Dam Village - Renovate 14 Executive Cottages		
	Bond Funds	1,730,000	
29.	Kentucky Dam Village - Renovate Lodge Complex		
	Bond Funds	5,240,000	
30.	Kentucky Dam Village - Replace 16 Village Area Cottages		
	Bond Funds	1,950,000	
31.	Kentucky Horse Park - Additional Stalls		
	Bond Funds	831,000	
32.	Kingdom Come - Water Treatment Plant		
	Bond Funds	270,000	
33.	Lake Barkley - Covered Pool		
	Bond Funds		1,460,000
34.	Lake Barkley - Golf Course Expansion		
	Bond Funds		1,515,000
35.	Lake Barkley - Renovate Lodge Complex		
	Bond Funds	3,825,000	
36.	Lake Barkley - Sewer System Upgrade		
	Bond Funds	1,190,000	
37.	Lake Cumberland - Renovate Community Pool		

	Bond Funds	245,000	
38.	Lake Cumberland - Renovate Lodge Complex		
	Bond Funds	1,150,000	

Included in the Bond Funds above are the following purposes: $100,000 for Handicapped Access (ADA Elevator); $750,000 for HVAC Replacement; $200,000 for Electrical Upgrade; and $100,000 for Public Restrooms.

39.	Levi Jackson - Campground Improvement		
	Bond Funds	810,000	
40.	Levi Jackson - Replace Public Pool		
	Bond Funds	1,330,000	
41.	Lincoln Homestead - Park Development		
	Bond Funds	240,000	
42.	Mineral Mound - Park Development		
	Bond Funds		3,915,000
43.	My Old Kentucky Home - Amphitheater Repairs		
	Bond Funds	1,625,000	
44.	My Old Kentucky Home - Mansion Renovation		
	Bond Funds	460,000	
45.	My Old Kentucky Home - Visitors Center		
	Bond Funds		760,000
46.	Natural Bridge - Campground Improvements		
	Bond Funds	325,000	
47.	Natural Bridge - Hoedown Island Renovation		
	Bond Funds		540,000
48.	Natural Bridge - New Sewer Plant		
	Bond Funds	1,080,000	
49.	Natural Bridge - Renovate Lodge Complex		
	Bond Funds	800,000	
50.	Natural Bridge - Replace Pool		
	Bond Funds	2,660,000	
51.	Old Mulkey - Meeting House Renovation		
	Bond Funds	160,000	
52.	Pennyrile - Cottage Area Improvements		
	Bond Funds	325,000	
53.	Pennyrile - Renovate Lodge Complex		
	Bond Funds	2,045,000	
54.	Perryville - Battlefield Restoration		
	Bond Funds	325,000	
55.	Pine Mountain - Develop Lake Area		
	Bond Funds	100,000	2,855,000
	Other Funds		1,500,000
	Total	100,000	4,355,000
56.	Pine Mountain - Renovate Lodge Complex		
	Bond Funds	2,280,000	
57.	Rough River - Renovate Lodge Complex		
	Bond Funds	3,055,000	
58.	Taylorsville Lake - Campground Development		
	Federal Funds		960,000
	Bond Funds		960,000
	Total		1,920,000

59.	White Hall - Museum HVAC System		
	Bond Funds	325,000	
60.	Yatesville - Barkers Run Sewer and Restrooms		
	Federal Funds	300,000	
	Bond Funds	300,000	
	Total	600,000	
61.	Yatesville - Campground Development		
	Federal Funds		2,000,000
	Bond Funds		2,255,000
	Total		4,255,000
62.	Yatesville - Marina Development		
	Bond Funds	1,200,000	

The sale of bonds for these projects shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

Notwithstanding the provisions of KRS 45.760, 45.770, and 45.780, no project contained in the Parks Revitalization Bond issue shall exceed the appropriated amount. Amounts in excess of those required to complete each authorized project shall be retained as surplus bond proceeds until appropriated by the General Assembly.

N. TRANSPORTATION

Budget Unit		1994-95	1995-96
1.	Department of Administrative Services		
a.	Bowling Green District Office Building Renovation		
	Road Fund (1993-94 - $100,000)	1,300,000	
b.	Building Repairs and Painting		
	Road Fund	325,000	325,000
c.	Magoffin County Maintenance Facility		
	Road Fund	857,000	
d.	Meade County Maintenance Facility		
	Road Fund		632,000
e.	Road Maintenance - Various Parks		
	Road Fund	500,000	500,000
f.	Stormwater/KPDES Testing and Remediation		
	Road Fund	300,000	300,000
g.	Various ADA Improvements		
	Road Fund	500,000	750,000
h.	Various Environmental Projects-UST's Etc.		
	Restricted Funds	1,500,000	1,500,000
i.	Various Wastewater Treatment, Water Supply Projects		
	Road Fund	250,000	
j.	Electronic Network Printing System		
	Road Fund	280,000	
k.	Engineering Copiers/Printers		
	Road Fund	265,000	
l.	Nuclear Asphalt Content Gauges and Crack/Joint Material Tester		
	Road Fund		100,000
m.	Printing/Duplication Equipment		
	Road Fund		200,000
n.	Strategic Highway Test Equipment and Concrete Cylinder Breakers		
	Road Fund	135,000	
o.	Weigh In Motion/Traffic Data Collection Equipment (WIM/TDC)		

	Road Fund	150,000	150,000
p.	Whiteprinter/Large Document Printer		
	Road Fund	85,000	
q.	Floyd County Maintenance Barn		
	Road Fund	385,000	
r.	Pike County Maintenance Shed		
	Road Fund	100,000	

O. WORKFORCE DEVELOPMENT

Budget Unit		1994-95	1995-96
1.	General Administration and Program Support		
a.	Miscellaneous Maintenance Pool		
	Investment Income	935,000	935,000
2.	Department for Technical Education		
a.	Kentucky Tech Danville Campus		
	Bond Funds	7,164,000	
b.	Hopkinsville Regional Technical Training Center		
	Bond Funds	8,000,000	
c.	Shelby County SVTS Technology Expansion		
	Bond Funds		10,932,000

The sale of bonds for above projects shall occur after January 1, 1995. Annual debt service is provided in fiscal year 1995-96.

If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund. The Council on Higher Education subheading in this section includes projects entitled "Life Safety Projects Bond Pool" and "University Restricted Funds Bond Projects Pool." For the Life Safety Projects Bond Pool, $15,000,000 in projects are authorized to be funded from General Fund-supported bonds. For the University Restricted Funds Bond Projects Pool, $35,000,000 in projects are authorized to be funded from Restricted Funds-supported bonds. These two pools provide funding for individual projects to be recommended by the Council on Higher Education to the Secretary of the Finance and Administration Cabinet from the respective project listings previously identified and recommended by the Council for funding in the 1994-96 biennium. In addition, any project originally recommended by the Council for agency bonds but not included in the $35,000,000 pool, may be funded from restricted funds, if available, upon notification to the Council on Higher Education and approval of the Secretary of the Finance and Administration Cabinet.

Contingent upon the availability of federal and privately raised (restricted) funds, the University of Kentucky is hereby authorized to expend up to $11,000,000 in federal funds in fiscal year 1994-95, and up to $6,000,000 in private (restricted) funds in fiscal year 1994-95, for the Phase I development of a new Aging/Allied Health Building in Lexington as recommended by the Council on Higher Education. The proposed building will contain multidisciplinary programs, including laboratories, classrooms, research, office, study, general use, training/therapy, and health care space. The $17,000,000 in initial Phase I funds authorized by this section is provided for the following project phases including, but not limited to, design, programming, site acquisition and site preparation. The facility is ultimately estimated to be a $29,500,000 building, concentrating on innovative and cost-effective health care for the elderly and serving allied health care needs such as administration, ethical issues, alternatives to institutionalization, and access to health care.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of higher education involving no state or federal funds, may be authorized between regular sessions of the General Assembly, providing that such projects receive prior approval from both the Council on Higher Education and the Secretary of the Finance and Administration Cabinet, and that the Capital Projects and Bond Oversight Committee receives prior notification.

Pursuant to the provisions of KRS 45.760(12), the Capital Construction and Equipment Purchase Contingency Fund may be used to advance funds to projects authorized to be financed by bonds and may be used to finance feasibility studies for future projects.

The provision of KRS 45.770(4) notwithstanding, at the end of the 1992-94 biennium, moneys constituting the available balance in a project or maintenance pool funded with capital construction investment income shall be transferred to the capital construction investment income account.

Roof repair or replacement projects shall be eligible for Emergency Repair, Maintenance, and Replacement Fund allotments, subject to the provisions of KRS 45.780.

Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to

56.590. Administration of the Economic Development Bond program by the Secretary of Economic Development Cabinet is subject to the guidelines contained herein: (1) Project selection criteria are to be developed by the Secretary of Economic Development Cabinet. The criteria shall include, but not be limited to, such issues as: a project's job creation and/or job retention potential, degree of public and/or private local involvement, and potential project payback and/or contribution in retiring the associated debt obligation. (2) Projects of state agencies are not eligible for funding from this source unless expressly provided for in the State/Executive Branch Budget Bill. (3) Project selection shall be documented when presented to the Secretary of Finance and Administration. Included in the documentation shall be the rationale for selection and expected economic development impact. (4) Following approval by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the Economic Development Cabinet to the next regularly scheduled Capital Projects and Bond Oversight Committee meeting for information and review under the provisions of KRS 45.750 to 45.816.

If an economic development project incurs financial assistance and expenses prior to issuance of bonds, the Secretary for Economic Development, with the approval of the Secretary of Finance and Administration, may be authorized to expend up to $500,000 from an economic development contingency account for this purpose, subject to the provisions in this Act.

Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly to appropriate amounts for specific purposes to projects which are not individually identified herein in the following areas: Repair of State-Owned Dams, Economic Development projects, Infrastructure projects, Asbestos Abatement projects, the Life Safety Projects Bond Pool for Higher Education, the University Restricted Funds Bond Projects Pool, as well as the Northern Kentucky Telecommunications Center. Any such projects estimated to cost over $200,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

The provisions of KRS 56.870(1) shall not be applicable to the financing of any project where the project is certified by the Secretary of Finance and Administration to be of such type as to independently produce revenue sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums and any other expenditures necessary for financing so that no appropriation of state funds will be required. Such certification shall be made in writing by the Secretary of the Finance and Administration Cabinet to the statutory head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission.

Repayments of revolving funds established with bond issues for which debt service, issuance costs, reserve fund requirements, insurance premiums or any other expenditures associated with the issuance of such bonds is appropriated by the General Assembly shall not be deemed independently produced revenue.

Prior to the issuance of the revenue bonds or notes authorized by this Act, the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this section, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

PART III

GENERAL PROVISIONS

1. Restricted funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Funds, State Enterprise Funds (State Parks, State Fair Board, Industries for the Blind, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Computer Services, Central Stores, Telecommunications, Prison Industries, Central Printing, Risk Management and Property Management) and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills. Appropriations out of restricted funds in this Act shall include all fees (which include fees for board and room, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by an agency or budget unit of the state government, except as otherwise specifically provided, for the use and benefit of each agency or budget unit for the purposes for which each restricted funds or account is authorized. Restricted funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made as provided in this Act. All receipts of restricted funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

Appropriations out of federal funds in this Act shall include federal subventions, grants, contracts or other federal funds received, income from investments and other miscellaneous federal receipts received by an agency or budget unit of the state government, except as otherwise provided, for the use and benefit of each agency or budget unit for the purposes for which each fund account is authorized. Federal funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made as provided in this Act. All federal funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

If receipts received or credited to any restricted funds account or federal funds account during fiscal year 1994-95 or fiscal year 1995-96, and any balance forwarded to the credit of any such account from the previous fiscal year, exceed the appropriation made by specific sum to said account as provided in Part I of this Act for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said fiscal year only upon compliance with the conditions and procedures specified in this Act and with the authorization of the State Budget Director of the Governor's Office for Policy and Management and approval of the Secretary of the Finance and Administration Cabinet. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and such documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with the provisions of this Act.

Except as otherwise provided in this Act, the appropriate agency or budget unit may requisition for expenditure from the restricted funds account or the federal funds account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1995, and during the fiscal year ending June 30, 1996, all receipts placed to the credit of respective funds accounts for such year, out of which has been established a restricted funds account or federal funds account for each separate agency or budget unit during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each agency or budget unit, shall submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission documentation of restricted funds and federal funds for each budget unit showing estimated receipts and estimated expenditures, a comparative statement of any revised estimated receipts and proposed expenditures with sums specified in the enacted Budget of the Commonwealth and statements which explain the necessity, use, and purpose for the occurrence of such variances.

An unbudgeted appropriation shall not be allotted without prior review and action by the Interim Joint Committee on Appropriations and Revenue as provided in this section. Any request for allotment of unbudgeted appropriations from any fund source shall be documented in written detail by the head of the budget unit and transmitted simultaneously to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue. Proposed revisions to the specified appropriations sums in this Act to be authorized by the State Budget Director, or designee, shall be transmitted to the Interim Joint Committee on Appropriations and Revenue by the seventh work day of each month. By the final work day of the month in which the proposed revision is received, the Committee shall review the proposed expenditure of unbudgeted appropriations for conformance with the purposes of the appropriations and enacted budget, the provisions of this Act or statutes, and the statutory budget memorandum. If the Committee disapproves of the proposed revision of the enacted appropriated sum, the budget adjustment shall be invalid unless the proposed appropriation level is revised to comply with the Committee's objections, or the Committee is informed, in written detail, within 30 days by the State Budget Director that a determination has been made not to comply with the objections of the Committee. Where the committee fails to review and act upon the proposed expenditure of unbudgeted appropriations by the final work day of the month of receipt, the proposed revision of expenditure shall be deemed to have been reviewed and favorably acted upon. The Legislative Research Commission shall maintain records of the Committee's determinations and reports of actions by the State Budget Director, and transmit these records to the General Assembly when next convened. If an emergency unbudgeted appropriation revision is required due to a declared natural disaster, calamity, or impending and inadvertent deficit in an enacted appropriation sum as certified by the Governor, the State Budget Director is empowered to effect an emergency revised appropriation, with the approval of the Secretary of the Finance and Administration Cabinet and with concurrent notification to the Interim Joint Committee on Appropriations and Revenue of the action and its justification.

Allotments within appropriated sums for the activities and purposes contained in the enacted Executive Budget may be revised upon authorization of the State Budget Director at the request of the head of a budget unit. Allotments shall conform with appropriations in this Act, other Appropriation Provisions, and the statutory budget memorandum. A copy of the request and the determinations of the State Budget Director shall be transmitted to the Interim Joint Committee on Appropriations and Revenue prior to the implementation of the revision of the allotment.

If a budget unit not listed in Part I of this Act receives unanticipated restricted funds or federal funds moneys, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity, and use of such moneys, may authorize, upon recommendation of the State Budget Director and review and action by the Interim Joint Committee on Appropriations and Revenue, the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a separate discrete restricted funds or federal funds account, as appropriate for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet shall provide appropriate notice pursuant to this event to the Interim Joint Committee on Appropriations and Revenue.

Institutions of higher education shall be exempt from all conditions and procedures in this section and Section 8 of Part

III with the respect to the authority of the State Budget Director and the Finance and Administration Cabinet to review or approve unbudgeted restricted funds or federal funds receipts or appropriations in excess of the enacted budget; provided, however, in the event of this occurrence, an institution of higher education must report excess unbudgeted restricted funds and federal funds receipts to the Interim Joint Committee on Appropriations and Revenue and to the State Budget Director.

A state agency entitled to federal funds which would represent one hundred percent (100%) of the cost of a program in which the state may participate shall not decline to accept or receive such entitlement without notification to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission and the State Budget Director.

2. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1994, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

3. In enacting the State/Executive Branch Budget Bill, it is the deliberate intention of the General Assembly to enact each section, and each subsection and each appropriation sum by specified fund or funds accounts thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

4. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Finance and Administration Cabinet, and the Departments of Treasury and Law relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs. The receipts and allotments under this Section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

5. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed, unless otherwise provided by this Act.

6. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records and the statutory budget memorandum.

7. Any General Fund or Road Fund appropriation made herein in anticipation of a lack, loss, or reduction of federal funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent such federal funds otherwise become available.

8. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within sixty days upon adjournment of the 1994 General Assembly, to publish a final enacted budget document, the Budget of the Commonwealth, based upon the proposed Executive Budget as enacted by the 1994 General Assembly as well as other acts which provide appropriations for the 1994-96 biennium and based upon supporting documentation and legislative records as considered by the 1994 General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and such other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

9. In the event that any authorized capital construction or equipment purchase projects are cancelled or if conditions imposed by this Act are not met, any appropriated General Fund or Road Fund debt service for those same projects shall remain unallotted and lapse to the credit of the respective surplus account. In the event that General Fund or Road Fund appropriated debt service is more than is required due to favorable interest rates, refinancing, or timing variances, the excess debt service in each fiscal year shall remain unallotted and lapse to the credit of the respective surplus account.

10. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

11. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General

Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

12. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless such executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 1994 General Assembly. If any executive reorganization order issued from sine die adjournment of the 1992 Regular Session to sine die adjournment of the 1994 Regular Session is not confirmed by the 1994 General Assembly, the Secretary of the Finance and Administration Cabinet is empowered and directed, in consultation with agency heads and with notification to the Legislative Research Commission, to transfer the balance of funds for any affected program or function for fiscal year 1993-94 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to such reorganization action or in which it was placed by action of the 1994 General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

13. Any appropriation in this Act and any other enactment by the 1994 General Assembly which contains an appropriations provision for the same purpose and amount shall be construed as duplicate sums and no additional moneys shall be provided for the duplicate appropriations. Questions of interpretation of such duplicate appropriations shall be determined as provided in this Act.

14. A Budget Reserve Trust Fund is hereby established. There is appropriated from the fiscal year 1993-94 budgetary undesignated General Fund balance $51,500,000 to the Budget Reserve Trust Fund. There is appropriated from the General Fund, $30,000,000 for fiscal year 1994-95 to the Budget Reserve Trust Fund.

These funds shall be used if actual General Fund receipts during the 1994-95 fiscal year or the 1995-96 fiscal year are not sufficient to meet the required General Fund appropriation levels authorized by this Act or other general biennial appropriations bills. In addition, allotments from the Budget Reserve Trust Fund may be made for items deemed to be emergency or mandated expenditures elsewhere provided for in this Act if there be insufficient moneys in the General Fund Surplus Account.

An allotment or expenditure from the Budget Reserve Trust Fund shall not be made except upon approval of the Governor of the Commonwealth. The Secretary of the Finance and Administration Cabinet shall, before authorizing any allotment or expenditure from the Budget Reserve Trust Fund, provide written notice to the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding the provisions of KRS 45.229, any unexpended balance in the Budget Reserve Trust Fund remaining at the close of the 1993-94 fiscal year shall not lapse, but shall continue into the 1994-95 fiscal year and any unexpended balance remaining at the close of the 1994-95 fiscal year shall not lapse, but shall continue into the 1995-96 fiscal year.

15. The General Assembly acknowledges that during fiscal year 1992-93 the General Fund revenues are less than the enacted estimates pursuant to KRS 48.120(3) and that the 1992 General Assembly had enacted the general appropriations bills in the 1992 Acts Chapters 462, 260, and 135 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 1992 General Assembly enacted the 1992-94 General Fund Budget Reduction Plan for fiscal year 1992-93 in the 1992 Acts Chapter 462, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

The General Assembly finds that the provisions set forth in, and provided by, Order 93-655 by the Secretary of Finance and Administration as certified by the Governor are invalid as to any authority with regard to the judicial and legislative branches, and as to the revised appropriation levels set forth in the Order 93-655 for the judicial and legislative branch budget bills for the 1992-94 biennium.

Notwithstanding the provisions of KRS 48.130 and 48.160 or otherwise provided in this Act, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in Order 93-655 and confirms and enacts the advances, transfers and lapses to the General Fund of non-General Fund moneys identified in Order 93-655.

The General Assembly acknowledges that during fiscal year 1993-94 the General Fund revenues are less than the enacted estimates pursuant to KRS 48.120(3) and that the 1992 General Assembly had enacted the general appropriations bills in the 1992 Acts Chapters 462, 260, and 135 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 1992 General Assembly enacted the 1992-94 General Fund Budget Reduction Plan for fiscal year 1993-94 in the 1992 Acts Chapter 462, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

The General Assembly finds that the provisions set forth in, and provided by, Order 94-156 by the Secretary of Finance and Administration as certified by the Governor are invalid as to any authority with regard to the judicial and legislative branches, and as to the revised appropriation levels set forth in the Order 94-156 for the judicial and legislative branch budget bills for the 1992-94 biennium.

The General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the executive branch contained in Order 94-156 except that the following fiscal year 1993-94 appropriation amounts are hereby reconstituted as follows:

General Government
Local Government Economic Assistance Fund
From: $31,849,500 To: $31,511,400
Education, Arts and Humanities Cabinet
Department for Libraries and Archives
a. General Operations
From: $6,778,300 To: $6,972,000
b. Direct Local Aid
From: $4,990,000 To: $4,796,300
Justice\Corrections Cabinet
Department of Corrections
b. Adult Institutions
From: $109,587,800 To: $109,576,000
c. Community Services and Local Facilities
From: $33,220,800 To: $33,380,400
d. Local Jails Support
From: $14,535,600 To: $14,387,800
Natural Resources and Environmental Protection Cabinet
c. Department for Surface Mining and Reclamation Enforcement
From: $11,438,400 To: $9,609,700
d. Department of Law
From: $1,712,300 To: $3,541,000
Workforce Development Cabinet
Executive Policy and Management
From: $625,400 To: $0
Adult Education and Literacy
From: $6,123,700 To: $6,045,800
Department for Adult Technical Education
From: $55,876,900 To: $55,777,900
Adult and Technical Education
From: $0 To: $64,400
General Administration and Program Support
From: $6,093,200 To: $6,743,500
General Administration and Support
From: $0 To: $74,100
Commission on Literacy
From: $0 To: $13,500
GRAND TOTAL EXECUTIVE BRANCH
From: $4,552,439,200 To: $4,552,101,100
GRAND TOTAL - STATE GOVERNMENT
From: $4,679,322,700 To: $4,678,984,600

The General Assembly confirms, adopts, and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in Order 94-156.

The General Assembly confirms, adopts, and enacts the allotment reductions and revised appropriations levels for budget units of the judicial branch as implemented and certified by the Administrative Office of the Courts pursuant to KRS Chapter 48. The General Assembly ratifies, confirms, adopts, and enacts the allotment reductions and revised appropriations levels for the budget units of the legislative branch as implemented and certified by the Legislative Research Commission pursuant to KRS Chapter 48.

16. Notwithstanding KRS 61.565, it is the intent of the General Assembly that, from July 1, 1994, through June 30, 1996, the employer contribution rate for the Kentucky Employees Retirement System shall be no more than 8.56 percent for nonhazardous duty employees and 17.97 percent for hazardous duty employees; for the same period, the employer contribution for employees of the State Police Retirement System shall be no more than 21.78 percent.

17. Totals and subtotals given within this Act and other general branch budget bills are provided as a convenience and do not constitute appropriations of funds. To the extent that a total or subtotal conflicts with the sum of the appropriation figures of which it consists, the amounts of the individual appropriations shall control. When a conflict of this nature arises, either as a result of an inadvertent error in initial entry of a total or subtotal or through an amendment to any of its component appropriations, the Director of the Legislative Research Commission shall apprise the Reviser of Statutes in writing of the existence of and reason for the variation and of the correct amount of the total or subtotal, and, if the requested change is within the scope of this paragraph, the Reviser shall cause that corrected total or subtotal to be substituted in the Acts and journals of the General Assembly and in the Kentucky Revised Statutes.

18. By October 15, 1995, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" shall mean an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. On July 1, 1994, the Department of Personnel shall establish a record of budgeted permanent, full-time and equivalent positions based upon the enacted Budget of the Commonwealth and any adjustments authorized by provisions of this Act; the total number of filled and vacant positions of permanent, full-time and equivalent employees shall not exceed the authorized complement pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Commissioner of Personnel may authorize, the employment of an individual in addition to the authorized complement for the duration of the time period within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

2. It is the intent of the General Assembly to provide for an annual increment of five (5) percent in both fiscal year 1994-95 and fiscal year 1995-96 on the base salary or wages of each eligible state employee, to be granted on his anniversary date.

3. It is the intent of the General Assembly, in order to make state government beginning salaries more competitive, to increase the minimum salary for each grade in the state government compensation system. State salary schedules shall be increased by five (5) percent in fiscal year 1994-95 and an additional three (3) percent in fiscal year 1995-96. Those employees whose salaries fall below the new minimum salary for each grade will automatically be increased to meet the new minimum for each grade.

4. It is the intent of the General Assembly, in order to provide for adequate salary growth for state employees, to increase the maximum of the salary range for each grade in the state government compensation system by twenty (20) percent effective July 1, 1994.

5. Notwithstanding the provisions of KRS 18A.010(2), or otherwise provided in this section, it is the intent of the General Assembly, for the 1994-96 biennium, to limit the total number of permanent, full-time, state tax-supported personnel employed in the agencies of the Executive Branch to thirty-three thousand (33,000). For purposes of this Act, state tax-supported personnel are defined as all permanent, full-time personnel employed in the Executive Branch, net of the Secretary of State, Treasurer's Office, Department of Law, Unified Prosecutorial System, Auditor of Public Accounts, and the Department of Agriculture, whose salaries, wages, and benefits are financed, from appropriations made, in whole or in part, from the General Fund or in part, from the Road Fund. Permanent full-time personnel in the Transportation Cabinet who are in whole, supported by the Road Fund appropriation, are excluded from the limit imposed by this section and the number of personnel may be increased up to ten percent over the 1994-96 biennium from the base number established by this Act. Fifty percent of newly-hired permanent full-time personnel shall be placed on county maintenance crews. In addition, if a lay off plan is required to be implemented, fifty percent of the affected permanent full-time personnel shall be terminated from the Central Office. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is hereby transferred from the restricted and special funds enumerated below to the General Fund the following amounts in fiscal year 1994-95 and fiscal year 1995-96.

		1994-95	1995-96
1.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)	2,000,000	2,000,000
2.	Department of Insurance (KRS 304.2-300; KRS 304.2-400; and KRS 304.2-440)	2,500,000	2,500,000
3.	Department of Financial Institutions (KRS 287.485)	1,375,000	1,375,000
4.	Professional Firefighter Fund (KRS 95A.220; KRS 42.190; and KRS 136.392)	500,000	
Total		5,875,000	6,375,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is hereby enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $4,996,774,000 in fiscal year 1994-95 and $5,207,831,000 in fiscal year 1995-96 as modified by related acts and actions of the General Assembly. Direct services and obligations essential to the minimum level of constitutional functions are exempt from the requirements of this Plan. Any budget revision taken by a branch head to alleviate the projected deficit shall not exceed the total specified in KRS 48.130.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582.

(2) Unappropriated funds available in the General Fund Surplus Account established in KRS 48.700 shall be applied toward the revenue shortfall.

(3) Funds available in the Budget Reserve Trust Fund created in this Act shall be applied in an amount not to exceed $30,000,000 in any fiscal year.

(4) Transfers of excess unappropriated and unbudgeted restricted funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(5) Debt service appropriations for unissued bonds and excess General Fund appropriations derived from reduced debt service requirements pursuant to the provisions of Part III of this Act shall be applied.

(6) In the event that the Secretary of Finance and Administration certifies that the application of the budget reduction actions directed in subsections one (1) through five (5) of this section are insufficient to overcome the revenue shortfall, then excess funds which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of Finance and Administration and the Legislative Research Commission. The Secretary of Finance and Administration shall execute the certified actions as transmitted by the branch heads.

Branch Heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(7) If the actions contained in subsections one (1) through six (6) of this section are insufficient to eliminate the revenue shortfall up to five (5) percent of the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the executive branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection and subject to the limit imposed under KRS 48.130 and KRS 48.600.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is hereby established a Road Fund Budget Reduction Plan for fiscal year 1994-95 and fiscal year 1995-96. In the event of an actual or projected deficit in Road Fund revenue receipts of $852,539,300 in fiscal year 1994-95 and $879,917,700 in fiscal year 1995-96 of at least two and one-half percent (2.5%) but not more than five percent (5%) less than the revenue estimates as determined under subsection (3) of KRS 48.120, the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Pursuant to KRS 48.140, there is hereby established a plan for the expenditure of Road Fund tax receipts up to two and one-half percent (2.5%) in excess of the tax receipts estimate of $840,575,700 in fiscal year 1993-94 and $852,539,300 in fiscal year 1994-95 for the Road Fund as determined by subsection (3) of KRS 48.120. This Road Fund Surplus Expenditure Plan provides for additional moneys for nonrecurring expenditures for which an appropriation was not made in this branch budget bill, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1993-94 and fiscal year 1994-95, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess Road Fund tax receipts available for expenditure through this Road Fund Surplus Expenditure Plan. The amount of excess receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Secretary of the Transportation Cabinet in a timely manner.

The Secretary of Transportation is hereby authorized to expend these excess tax receipts, up to the amount reported by the Secretary of the Finance and Administration Cabinet, for the purpose and sequence stated herein: (1) If all state match funds have been authorized, additional Road Fund money is appropriated to match all additional federal funds to which the state may be entitled to receive; (2) Up to $5,000,000 in the 1994-96 fiscal biennium shall be transferred to the Parkway Rehabilitation Program; (3) Up to $2,000,000 in each fiscal year, shall be transferred to the State Resurfacing Program; (4) Up to $2,000,000 in each fiscal year shall be used to purchase Snow and Ice Equipment or recondition existing equipment; and (5) Any balance shall be retained in the Road Fund Surplus Account.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATIONS

1. DEPARTMENT OF LAW

a. Legal Services Contracts: Over the course of the 1994-96 biennium, the Office of the Attorney General may present proposals to various state agencies specifying legal work that is presently accomplished through Personal Service Contracts and indicating that the Attorney General's staff has the capacity to perform this work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work, and in these cases the Office of the Attorney General may require an appropriation increase to expend agency funds. The Governor's Office for Policy and Management is authorized to approve appropriation increases and to report the amount and circumstances of the action to the Joint Interim Committee on Appropriations and Revenue.

If the Office of the Attorney General requires additional personnel to accomplish this expanded legal work, the Governor's Office for Policy and Management and the Department of Personnel shall increase the personnel cap to accommodate this action.

2. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing federal funds when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency, when the costs may be charged against federal funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) has changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1994 General Assembly, subject to the conditions and procedures provided in this Act.

Any additional expenses incurred by the Auditor of Public Accounts for auditing a state agency upon its request, when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984", shall be charged to the agency requesting the audit.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

3. PERSONNEL BOARD

a. Use of Budget Reserve Trust Fund for Excess Caseload Costs: If the number of appeals filed with the Personnel Board exceeds 900 within a given fiscal year and the Board faces an imminent deficit in appropriations due to the resulting case load, the Board may, upon compliance with the conditions and procedures specified in this Act, request that the State Budget Director authorize and the Interim Joint Committee on Appropriations and Revenue approve a General Fund appropriations increase from the Budget Reserve Trust Fund.

4. DEPARTMENT FOR LOCAL GOVERNMENT

a. Area Development District Financial and Program Audits: Funds appropriated in this Act for the Joint Funding Administration deemed by the Commissioner of Local Government and the State Budget Director not to be required for match of federal funds shall become available for appropriation to any Area Development District, subject to (1) completion of a financial and programmatic audit by the Auditor of Public Accounts for that Area Development District; and (2) the Commissioner of the Department of Local Government's being satisfied, in the Commissioner's sole discretion, with the findings of such audit. The audits shall be conducted in accordance with generally accepted government auditing standards and the programmatic performance audits in accordance with a format prescribed by the Auditor. The audits shall be paid for by each Area Development District and shall be completed within ninety (90) days of the close of the Districts' fiscal year. In addition, the Auditor of Public Accounts may, at any time, conduct any such additional audits, of any District as the Auditor deems necessary or desirable. All such audits shall be filed with the Governor, the Commissioner of Local Government, and the Legislative Research Commission. Each District shall reimburse the Auditor of Public Accounts for the reasonable cost of any audits performed by the Auditor's Office. With respect to any reimbursement that any District is required to pay to any agency, the District shall enter into an agreement with such agency under which the District shall pay to such agency an amount reasonably anticipated to cover such reimbursable expenses in advance of such expenses being incurred.

ECONOMIC DEVELOPMENT

5. SECRETARY'S OFFICE

a. Flat Woods Community-Based Corporation: The Flat Woods Community-Based Development Corporation shall submit a quarterly financial and status report to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue. Upon approval by the Secretary of the Economic Development Cabinet, other community-based enterprise zone organizations may utilize any remaining balances in the $25,000 General Fund appropriation.

6. FINANCIAL INCENTIVES

a. Capital Projects: Economic Development Contingency Fund: If the Secretary of Economic Development determines that a specific economic development project requires financial assistance prior to issuance of economic development bonds, the Secretary may authorize the expenditure, upon approval by the Secretary of the Finance and Administration Cabinet, of up to $500,000 from a capital construction account appropriated to the Economic Development Cabinet as an economic development contingency fund originally appropriated in fiscal year 1992-93. Any expenditures from the fund, in excess of $200,000 per project shall be reported to the Capital Projects and Bond Oversight Committee. All expenditures from the fund shall be reported in the Annual Capital Construction Report required by KRS 45.760(13). When a project is selected in accordance with KRS 154.12-100 to receive economic development bond funds after receiving assistance from the economic development contingency fund account, the amount expended from the contingency fund shall be included in the bond issue and that same amount shall be repaid to the contingency fund upon issuance of the bonds. Assistance provided from the economic development contingency fund account shall be restricted to actual and necessary costs incurred in the recruitment of the project as certified by the Secretary of Economic Development and shall include, but not be limited to, such items as feasibility studies, site survey and evaluation, environmental impact studies, legal services, or other similar expenses incidental to capital construction projects as defined in KRS 45.750 to 45.816 and in Part II of this Act.

Economic Development Capital Projects: The Northern Kentucky Convention Center project shall meet all applicable Economic Development Bond guidelines. The state bond proceeds shall not be made available until the $13,000,000 parking garage, to be constructed by the local government as an integral part of this project , is assured of being completed to the written satisfaction of the Secretaries of the Economic Development and Finance and Administration Cabinets. The Louisville Stadium project shall meet all applicable Economic Development Bond guidelines. The state bond proceeds shall not be made available until the approximately $53,000,000 local match from local bond proceeds, private fundraising, and/or the University of Louisville Athletic Association is assured to the written satisfaction of the Secretaries of the Economic Development and

Finance and Administration Cabinets.

Economic Development General Fund Surplus: It is the intent of the General Assembly in furtherance of the public policy to preserve existing jobs and to alleviate and prevent unemployment in the Commonwealth of Kentucky, that funds be authorized for expenditure from the General Fund Surplus Account (KRS 48.700) not to exceed a total of $4,771,300 in the 1994-96 biennium for a financial assistance program to retain existing business and industry. Such funds shall be made available only upon certification by the Secretaries of the Economic Development and Finance and Administration Cabinets to the Governor and the Interim Joint Committee on Appropriations and Revenue that the regular appropriations for fiscal years 1993-94, 1994-95 and 1995-96 are insufficient to fulfill the Commonwealth's obligations in support of the financial assistance program authorized by the General Assembly. In the event that the Governor shall affirm such certifications, the Secretary of the Finance and Administration Cabinet shall approve the allocations of the required sums from the General Fund Surplus Account and the State Treasurer shall approve such payment. A copy of the certifications, and written approval of the Governor, shall be filed with the Legislative Research Commission and reported to the Interim Joint Committee on Appropriations and Revenue.

State Bonds shall also not be made available until the Cabinet Secretaries are assured that: (1) the site location is safe for present and future generations; (2) a testing and remediation plan is submitted to the Economic Development and Financial and Administration Cabinets which insures that health hazards do not exists; (3) and any additional cost associated with resolving issues between the State or the University of Louisville shall be born by the previous owner. The state shall be held harmless from any environmental liability associated with the site location selected for the Louisville Stadium.

7. COMMUNITY DEVELOPMENT

a. Regional Office Divisions: The State Strategic Plan for Economic Development shall include a major role for the Cabinet's Regional Offices. Coordination of the Offices' roles with other regional development groups shall be accomplished with minimal duplication of effort. The Economic Development Partnership Board, in the course of addressing the requirements of KRS 154.10-100 to 154.10-140, shall review the effectiveness of the Regional Offices' programs and identify areas for improvement, including reducing duplicative efforts. The Regional Offices shall submit quarterly financial and status reports to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue.

DEPARTMENT OF EDUCATION

8. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: The Department of Education may fill through memoranda of agreement not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

9. LEARNING RESULTS SERVICES

a. School Rewards Trust Fund: The total amount of funds to be distributed to local schools from the School Rewards Trust Fund shall be limited to two percent (2%) of the gross statewide payroll for certified personnel in the year preceding the distribution of rewards.

10. LEARNING SUPPORT SERVICES

a. Use of Funds for Administrative Purposes: The Cabinet for Human Resources is authorized to use for administrative purposes no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Service Centers.

b. Teacher Preparation, Licensing, and Institutional Accreditation: Additional General Fund totaling $100,000 in fiscal year 1994-95 and $200,000 in fiscal year 1995-96 is included for development of a detailed plan for the transformation to a performance-based, results-oriented system of teacher preparation, licensing, and institutional accreditation. These funds shall also be used to validate the performance of all new training program graduates and a selected number of volunteers currently employed as early childhood educators for certification as interdisciplinary early childhood educators and to continue the state's participation in the interstate activities for the performance-based licensure of new teachers. These programs for certification of early childhood applicants shall be used as the pilot for the performance-based, results-oriented certification system. This shall be a joint project of the Education Professional Standards Board, the Department of Education, the Cabinet for Human Resources, and the Council on Higher Education. Progress reports related to implementation of the new certification system and the early childhood pilot shall be made to the Interim Joint Committee on Education.

c. Medicaid Match for Family Resource/Youth Service Center Operations: If the Cabinet for Human Resources secures approval from the federal Health Care Financing Administration to use federal Medicaid appropriations to underwrite or supplement expenditures associated with Family Resource/Youth Service Centers and/or student health-related functions performed by elementary and/or secondary school faculty, staff, and administrators, the Department of Education is hereby authorized to transfer to the Cabinet General Fund appropriations for Family Resource/Youth Service Centers equal to the state Medicaid match necessary to leverage additional, unbudgeted federal Medicaid funds. Any such transfer shall be approved by the Commissioner of Education, the Secretary of the Cabinet for Human Resources, the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue. An amount equal at least to the amount transferred shall be restored to the General Fund appropriation for Family Resource/Youth Service Centers upon receipt of the Medicaid funds. Any additional moneys above and beyond the enacted General Fund appropriations for Family Resource/Youth Service Centers which become available as a consequence of such actions may be used to increase Support Education Excellence in Kentucky (SEEK) allocations to local school districts in accordance with the statutory SEEK formula, to increase Extended School Service allocations to local school districts, or to increase preschool program allocations to local school districts. Any such allocation increases shall be approved by the State Budget Director upon recommendation of the Commissioner of Education and reported in advance to the Interim Joint Committee on Appropriations and Revenue. The Secretary of Finance, upon recommendation of the State Budget Director after consultation with the Commissioner of Education, is authorized to permit the carrying forward from fiscal year 1994-95 into fiscal year 1995-96 of any or all additional moneys above and beyond the enacted General Fund appropriations for Family Resource/Youth Service Centers which become available under conditions of this section. The decision shall be reported to the Interim Joint Committee on Appropriations and Revenue.

EDUCATION, ARTS, AND HUMANITIES

11. OFFICE OF THE SECRETARY

a. Task Force on the Deaf and Hard of Hearing Services: The General Assembly recognizes the need for expanded and improved services for the deaf and hard of hearing citizens of the Commonwealth. The General Assembly also recognizes that the array of services now provided may be fragmented, inefficient, and inaccessible. o address the needs of the deaf and hard of hearing, the General Assembly creates a Task Force on the Deaf and Hard of Hearing and charges this Task Force to develop a strategic and long-range plan for providing adequate services for the deaf and hard-of-hearing population in the Commonwealth.

The Task Force shall be chaired by the Secretary of the Education, Arts and Humanities Cabinet and necessary expenses of the Task Force shall be the responsibility of the Cabinet. Staff support for the Task Force shall also be provided by the Cabinet.

The members of the Task Force shall include: Executive Director, Kentucky Commission on the Deaf and Hard of Hearing; Chair, Kentucky Commission on the Deaf and Hard of Hearing or his designee; Secretary, Workforce Development Cabinet or his designee; Secretary, Cabinet for Human Resources or his designee; Secretary, Education, Arts and Humanities Cabinet; Executive Director, Council on Higher Education or his designee; and the Commissioner of Education or his designee. Up to ten (10) additional Task Force members shall be appointed by the chairperson of the Task Force. These additional members shall include at least four (4) deaf or hard-of-hearing citizens and a representative of the Kentucky School for the Deaf. Upon completion of these appointments, the chairperson of the Task Force shall notify the Legislative Research Commission of the exact membership of the Task Force.

Progress reports shall be provided to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare. A final report shall be submitted to the Governor and the Legislative Research Commission no later than July 1, 1995.

Notwithstanding the provisions of KRS 12.028, it is the intent of the General Assembly that the executive branch shall take no action regarding the Task Force recommendations prior to their consideration by the General Assembly during the 1996 Regular Session of the General Assembly.

12. TEACHER'S RETIREMENT SYSTEM

a. Retiree Benefits Obligations Conversions and Benefit Improvement: Notwithstanding the provisions of KRS 161.553, the Board of Trustees of the Kentucky Teachers' Retirement System is authorized to convert all existing obligations for retiree benefit improvements from a twelve year to a fifteen year period of amortization. Funds made available as a result of this conversion shall be used to provide an additional cost of living adjustment and increase in the minimum value of a year of service for retirees beginning in fiscal year 1994-95.

13. HERITAGE COUNCIL

a. Small Cities Revitalization Grant Program: The Small Cities Revitalization Grant Program is hereby established for the purpose of assisting community improvements. A General Fund appropriation of $500,000 is authorized in 1994-95. Of this sum, $300,000 is designated for the City of Wayland project. Of the remaining balance, the Secretary of the Education, Arts and Humanities Cabinet shall determine the number and amounts for additional grants for the program.

FINANCE AND ADMINISTRATION

14. FINANCE AND ADMINISTRATION CABINET

a. Veterans Nursing Home and Advisory Commission: Notwithstanding the provisions of KRS 36.355, the Veterans Nursing Home is transferred immediately upon the effective date of this act to the Veterans Nursing Home Advisory Commission which is attached to the Finance and Administration Cabinet for administrative purposes. $150,000 from the General Fund in fiscal year 1994-95 for the Kentucky Veterans Nursing Home and Cemetery feasibility analysis and preliminary design is transferred to the Veterans Nursing Home Advisory Commission.

b. Kentucky Automated Purchasing System: Notwithstanding the provisions of KRS 42.029, the Department for Administration is authorized to develop, maintain, and implement the Kentucky Automated Purchasing System.

c. Federally Assisted Wastewater Loan Fund and Federally Assisted Water Supply Revolving Fund: $5,000,000 in bonds is authorized in fiscal year 1994-95 for the Federally Assisted Wastewater Loan Fund. $5,000,000 in bonds is authorized in fiscal year 1994-95 for the federally Assisted Water Supply Revolving Fund contingent upon passage of federal enabling legislation and shall revert to the Kentucky Infrastructure Authority Federally Assisted Wastewater Loan Fund if enabling legislation is not passed.

HIGHER EDUCATION

15. COUNCIL ON HIGHER EDUCATION

a. Vacancies in Contract Programs - If a student is dismissed or voluntarily withdraws from a contract program thereby creating a vacancy, the Council on Higher Education in conjunction with the contracting institution should attempt to find another qualified Kentucky student to fill the vacancy. The search for substitutes to fill a vacancy should be limited to the institution experiencing the vacancy.

b. University Performance Funding: Included in the General Fund appropriations for fiscal year 1995-96 is a total of $18,020,100 designated as performance-based funding to be allotted among the public institutions of higher education based on a performance funding system cooperatively developed by the Council on Higher Education and the universities and approved by the Council on Higher Education on March 7, 1994. Any performance funding for which a University does not qualify, as determined by this performance funding system, shall lapse to the credit of the General Fund. The performance funding system shall be effective for fiscal year 1995-96 only. The Council on Higher Education and the Conference of University Presidents shall review and revise the funding formula during the 1994-95 interim to incorporate performance funding concepts and principles for use in the 1996-98 fiscal biennium appropriations development process.

If the universities receive a budget reduction in state general fund support in fiscal year 1994-95 or fiscal year 1995-96, implementation of performance funding shall be deferred until the 1996-98 fiscal biennium.

c. Tuition Rate Setting: According to the provisions of KRS 164.020(3), the Council on Higher Education has the Authority to set tuition rates during fiscal biennium 1994-96.

16. MOREHEAD STATE UNIVERSITY

a. Lease Purchase Agreement: A lease/purchase agreement is an alternative payment method for the MoSU Wellness Facilities project. If a lease/purchase financing arrangement is utilized, the total scope of the project, including, but not limited to, principal repayment and interest shall not exceed $500,000.

17. UNIVERSITY OF KENTUCKY

a. Agricultural Economic Development Initiative: $1,500,000 in each fiscal year of the biennium is to be provided from the General Fund Surplus Account for the University of Kentucky's Agricultural Economic Development Initiative in support of Agriculture Project 2000 for purposes specified in the Statutory Budget Memorandum.

18. UNIVERSITY OF LOUISVILLE

a. Matching Fund Support for a Research Building: University of Louisville shall provide $14,000,000 from local, private fund raising support, or university resources as matching funds for $14,000,000 of state supported construction costs to fund a research building on the Health Science Center Campus. Contingent upon the University of Louisville's commitment of providing a $14,000,000 matching support, there is appropriated from the General Fund Surplus Account in fiscal year 1995-96 $1,407,000 for debt service to support the $28,000,000 facility.

HUMAN PESOURCES

19. CABINET-WIDE INCLUDING THE COMMISSION FOR HANDICAPPED CHILDREN AND THE HEALTH CARE POLICY BOARD

a. Resources Use: The Cabinet shall maximize all federal funds for programs within the Cabinet.

b. Reorganization: Notwithstanding KRS 12.028 and KRS 194.040, the executive branch shall take no action or expend any appropriated funds for the transfer of programs and services to other state agencies or for contracts which were not authorized in the budget bills or other enabling legislation. Pursuant to the provisions of KRS Chapter 18A, a state employee who is affected by an act related to the reorganization or privatization of the department or agency in which he is employed shall have the right to refuse a transfer to a positions which is more than fifty (50) miles from his residence. A state employee whose position is currently protected by the provisions of KRS Chapter 18A and who is affected by layoff or reorganization of the department or agency in which he is employed shall not be placed in a position which is not covered by the provisions of that chapter.

c. Staff Directive: Require the Cabinet eligibility staff to inform all applicants about available public health services.

20. DEPARTMENT FOR SOCIAL INSURANCE

a. Reorganization: Notwithstanding KRS 12.028 and KRS 194.040, the executive branch shall take no action or expend any appropriated funds for the transfer of programs and services to other state agencies or for contracts which were not authorized in the budget bills or other enabling legislation. The Executive Branch plan to reorganize the Cabinet for Human Resources and rename the Department for Social Insurance is rejected by the General Assembly. The Department of Social Insurance shall continue to provide the following services: Aid to Families with Dependent Children, Food Stamps, Medicaid Eligibility Determination, State Supplementation, Welfare Reform (JOBS), Child Support Enforcement, Commodities, and Energy and Weatherization.

b. Transfer of funds: The Department for Social Insurance shall transfer up to $6,045,600 in fiscal year 1994-95 and up to $4,421,000 in fiscal year 1995-96 from Fund 72 Special Deposit Trust Funds account for current operating expenses within the department.

21. DEPARTMENT FOR EMPLOYMENT SERVICES

a. Reorganization: Notwithstanding KRS 12.028 and KRS 194.040, the executive branch shall take no action or expend any appropriated funds for the transfer of programs and services to other state agencies or for contracts which were not authorized in the budget bills or other enabling legislation. The Executive Branch plan to reorganize the Cabinet for Human Resources and rename the Department for Employment Services is rejected by the General Assembly. The Department of Employment Services shall continue to provide the following services: Employer and Job Placement Services, Employability and Training Programs (various titles of the Job Training Partnership Act), and Unemployment Insurance Benefits through the existing network of Local Offices and itinerant locations.

b. Unemployment Insurance: Provide mobile unemployment insurance services in localities where layoffs which involve more than fifty (50) individuals occur.

22. DEPARTMENT FOR HEALTH SERVICES

a. Sickle cell user fee: The Cabinet shall establish a fee not to exceed $3.50 to cover the cost of Sickle cell screening tests. The Secretary of the Cabinet for Human Resources shall promulgate the appropriate administrative regulations.

23. DEPARTMENT FOR SOCIAL SERVICES

a. Administration and Services: By July 1, 1994, funds for direct services including but not exclusive of contracts and personnel costs and funds for administration costs including but not exclusive of the Central Office, District Offices, and contracts not for direct services shall be allotted, expended, and displayed in appropriate requests and reports as a separate program codes or appropriation units.

b. Title IV-E Federal Funds: Any unappropriated Title IV-E funds or unexpended appropriated Title IV-E funds shall be used for salary and fringe cost for additional field workers with prior approval of expenditure plan by the Interim Joint Appropriation and Revenue Committee. These funds shall not replace any appropriated funds.

c. Child Abuse and Neglect Grants: Included in the Department for Social Services General Fund appropriation is $67,600 in fiscal year 1994-95 and fiscal year 1995-96 to provide a broad range of child abuse and neglect prevention activities such as self-help and parent education services.

d. Medicaid match: Funds appropriated for the care of state agency children may be used for Medicaid matching funds to the extent that the matched Medicaid funds are used for the treatment and care of state agency children. Any General Fund savings which accrue as a result of the use of Medicaid funds shall remain dedicated to the care of state agency children including incentives for the expansion of programs for the severely emotionally disturbed children.

e. Child Day Care: Child Day Care programs shall be retained and administered by the Department for Social Services

24. COMMISSION OF HANDICAPPED CHILDREN

a. Third party reimbursements: The Commission for Handicapped Children is authorized to expend all appropriated and unappropriated third party reimbursements to maintain or expand the population it serves. These funds shall not replace any appropriated funds.

JUSTICE CABINET

25. JUSTICE ADMINISTRATION

a. Juvenile Detention and Program Status Report: A total of $61,200 in fiscal year 1994-95 and $64,100 in fiscal year 1995-96 is provided to support a "Program Coordinator" and "Program Specialist" position. These positions may administer the Justice Cabinet's juvenile programs. Of the amount noted to support these positions, $33,300 and $51,500 in each respective year of the next biennium is provided from the General Fund. The balance is provided from federally funded grants. $500,000 is provided in fiscal year 1995-96 to enhance the Justice Cabinet's ability to maximize the acquisition of federal grants. These moneys may also be used to provide incentives to local governments to develop and implement alternatives to juvenile detention. The Justice Cabinet shall provide a program status and financial report to the Interim Joint Committee on Appropriations and Revenue on the distribution of this $500,000 on a quarterly basis. This report shall include the following: The recipient and purpose, the amount provided; the total funding commitment made to the initiative; the projected goals; and outcomes and their status.

26. STATE POLICE

a. Salary Enhancement for Dispatchers and Troopers: $323,400 is provided from the General Fund in each year of the next biennium to support enhancement of the state police dispatcher pay classification. This money will provide a $2,000 increase on the annual salary and is exclusive of any other salary increment that may be provided to all state employees. A "State Trooper Horizontal Career Program" is provided for, at a cost of $683,800 in each year of the next biennium. This program would reconfigure the existing "Senior Trooper" classification into three steps: "Senior Trooper"; "Trooper First Class"; and "Master Trooper". Current "Senior Troopers" who have held the position for at least five years will be eligible for this program and a three (3) percent salary increase. This salary enhancement is also exclusive of any other salary increment that may be provided to all state employees.

27. CORRECTIONS MANAGEMENT

a. Allocation of Juvenile Facilities Appropriations: General Fund moneys for the Juvenile Diversion programs shall be distributed as follows: Gateway Juvenile Diversion Project in Mount Sterling, $225,000 in fiscal year 1994-95 and $225,000 in fiscal year 1995-96; a Daviess County Diversion Project in Owensboro, $125,000 in fiscal year 1994-95 and $225,000 in fiscal year 1995-96; Eastern Kentucky Juvenile Detention Facility in Breathitt County is appropriated $74,800 in fiscal year 1995-96 for the purpose of employing 30 staff persons and providing related operating costs during the fourth quarter of fiscal year 1995-96. Each juvenile facility that receives General Fund appropriations shall be subject to the reporting requirements contained in the statutory Budget Memorandum. General Fund appropriations shall be disbursed to the juvenile diversion projects according to the scheduled prescribed in the statutory budget memorandum.

28. ADULT INSTITUTIONS

a. Salary Adjustments for Correctional Officer Class Series Group: Funds are provided to increase the entry level salary for Correctional Officers to $15,720 per year and Correctional Sergeants to $16,080 per year. Funds are also provided to increase the salaries of existing Correctional Officers and Correctional Sergeants to the new entry level or $30 per month, whichever is greater, effective June 16, 1994. Funds are also provided to increase the salaries of existing Correctional Lieutenants, Correctional Captains, and Correctional Senior Captains by $30 per month, effective June 16, 1994. These salary adjustments are to be in addition to any salary increase afforded to all state employees pursuant to Part IV of this Act.

b. Substance Abuse Treatment Programs: Additional General Fund support which is provided for substance abuse treatment programs may be utilized to maximize federal funds, but shall be expended for "treatment-oriented" programs only, and shall be subject to the reporting requirements contained in the statutory budget memorandum.

c. Inmate Population Projections and Bedspace Utilization Reports: The Justice Cabinet, Department of Corrections, shall submit quarterly and monthly reports relating to inmate population and bedspace utilization, as specified in the statutory budget memorandum.

29. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Officers Career Ladder and Security Equipment: Funds are provided to increase the salaries of the state's probation and parole officers who have fifteen (15) years of service, or more, by ten percent (10%). Any officer who qualifies for this salary adjustment must satisfy the requirements specified in KRS 196.076(4) to 196.076(7). These salary adjustments are to be in addition to any salary increase afforded all state employees pursuant to Part IV of this Act.

Any unanticipated savings from funds provided for payment of the statutory career ladder for probation and parole officers pursuant to KRS 196.076 and the expansion, as described above, shall be utilized to procure security equipment for probation and parole officers. The Justice Cabinet, Department of Corrections, shall submit a quarterly report which identifies the expenditure of these funds.

b. Substance Abuse Treatment-Oriented and After-Care Programs: Additional General Fund support which is provided for substance abuse treatment-oriented and after-care programs may be utilized to maximize federal funds, but shall be expended for "treatment-oriented" and after-care programs only, and shall be subject to the reporting requirements contained in the statutory budget memorandum. Any funds available for these programs on June 30, 1995, shall be continued into fiscal year 1995-96 and shall not lapse to the General Fund.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

30. DEPARTMENT FOR NATURAL RESOURCES

a. Forestry Expansion: To the extent that the Commonwealth fulfills the requirements of PL 95-87, the Federal Surface Mining Control and Reclamation Act with fewer positions than the number budgeted in fiscal biennium 1994-96, the positions and savings realized shall be transferred to the Department for Natural Resources, Division of Forestry, for the purpose of employing additional foresters to assist in the implementation of programs that emphasize forest stewardship and sustainability by integrating the Commonwealth's management of forest resources with its long-term economic development goals. The cabinet shall present it proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to the transfer of the positions and funds.

31. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Air Quality Program: The Clean Air Task Force established by the 1992 General Assembly shall be continued in fiscal biennium 1994-96. The task force shall include representatives of industry, the environmental community, and the cabinet, and shall report quarterly to the Legislative Research Commission for referral to appropriate committees. The cabinet shall also report quarterly to the Legislative Research Commission for referral to appropriate committees on the development and implementation status of the programs required by the 1990 Amendments to the Federal Clean Air Act.

32. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Regional Offices Consolidation: The Department is directed to consolidate the Eastern Kentucky regional field offices from six to four during the biennium. Any positions and savings realized shall be transferred to the Department for Natural Resources, Division of Forestry, for the purpose of employing additional foresters to assist in the implementation of programs that emphasize forest stewardship and sustainability and integrate the Commonwealth's management of forest resources with its long-term economic development needs. The Cabinet shall present its proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to the transfer of the positions and funds.

33. GENERAL ADMINISTRATION AND SUPPORT

a. Quality and Efficiency Measures: The Cabinet is directed to study the feasibility and cost effectiveness of consolidating its employee training and personnel management functions and is authorized to transfer any positions and associated funding to General Administration and Support for deposit into a separate account for Cabinet-wide efforts to increase employee productivity and efficiency. The expenditure purposes shall include implementation of approved personnel programs for employee training, institution of data systems and information technology, and telecommunications improvements. The Cabinet shall present its proposed plan to the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue prior to implementation.

b. Central Computer (VAX) Upgrade: The Cabinet is authorized to expend in the Capital Projects Budget, for the purpose of information technology improvement, any balances forwarded from the previous year in restricted or federal funds accounts.

c. Kentucky Land Heritage Conservation Fund: As the identification of specific projects and specific amounts to be funded from the Fund cannot be ascertained with certainty at this time, it is the intent of the General Assembly to appropriate amounts for projects which are not individually identified, consistent with the conditions and procedures of this Act.

34. ENVIRONMENTAL QUALITY COMMISSION

a. Commission Composition: Notwithstanding KRS 224.01-100, the Director of the Coal Marketing and Export Council shall be a member of the Environmental Quality Commission.

35. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND

a. Storage Tank Account: Notwithstanding KRS 224.60-130, or any other provision to the contrary, the Petroleum Storage Tank Environmental Assurance Fund Commission shall give priority, first, to claims approved for reimbursement from the storage tank account of nongovernmental applicants who meet all of the following conditions: (1) Purchased the tanks within two (2) years before the effective date of Resource Conservation and Recovery Act, Subchapter IX (November 8, 1984), and up to and including December 22, 1988; (2) Own five (5) tanks; or less; (3) Average adjusted gross income, based on the last five (5) years income tax returns, is less than fifty thousand dollars ($50,000); (d) In the last five (5) years, the applicant shall not have owned tangible assets, totaling at any one time, a sum in excess of one million dollars ($1,000,000); and, (e) Performed corrective action in accordance with KRS 224.60-135 and 401 KAR 42:060. These claims shall be paid in order of the date of receipt of the claim.

PUBLIC PROTECTION AND REGULATION CABINET

36. PUBLIC SERVICE COMMISSION

a. Agency Facilities Acquisition Assessment Fund: The Commission is authorized to construct or purchase and own facilities for its staff and provide for its operations. The Commission may certify to the Finance and Administration Cabinet the amount of assessment against utilities, as provided for in KRS 278.130, to provide for acquisition of the facilities. The assessment shall be in addition to the assessment required to maintain the operating costs of the Commission. The Revenue Cabinet shall make the assessment and deposit the proceeds in a General Fund account, dedicated for use by the Commission to pay for the cost of acquiring the facilities. Any interest accruing on the funds in the dedicated account shall be added to the principal of the account and may be used for acquisition of the facilities.

b. The Commission may accumulate funds in the account sufficient to pay for the cost of construction or purchase of the facilities, or, in the alternative, may apply to the State Property and Buildings Commission for the issuance of revenue bonds as provided for in KRS 56.450, in an amount sufficient to pay for the cost of construction or purchase price of the facilities. The bonds shall be secured by revenues derived by the Commission from the assessment.

c. The funds deposited to the credit of the dedicated account shall be appropriated for the purpose outlined above. The cost of construction shall include the purchase price of land, architectural and engineering fees, contractors and subcontractors fees and roads, parking and utility installation.

d. The Commission shall follow all applicable purchasing and construction guidelines as provided for by regulation or statute. The Commission shall report the status of the dedicated funds and the estimated timeline for purchase or construction of the facilities to the 1996 General Assembly and future General Assembly sessions until completion of the project. Upon completion of the project, the assessment rate will be reduced to an amount sufficient for the operation of the Commission pursuant to current language in KRS 278.130.

REVENUE

37. REVENUE CABINET

a. Program and Financial Status Report: The Secretary of the Revenue Cabinet shall present a program and financial status report quarterly during each fiscal year to the Interim Joint Committee on Appropriations and Revenue and the 1996 General Assembly, the status of additional compliance personnel approved by the 1994 General Assembly and the additional revenues which have been generated as a result of increased compliance efforts.

TOURISM

38. BREAKS INTERSTATE PARK

a. Reporting: The Parks Commission is directed to provide an annual program and financial report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue.

39. DEPARTMENT OF TRAVEL DEVELOPMENT

a. Electronic Billboard System: The Tourism Cabinet is authorized to spend up to $200,000 each year of the biennium from the Advertising Campaign to expand the electronic billboard system to additional locations. The cabinet shall report to Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue by September 1, 1994, regarding the feasibility of expanding the system.

40. DEPARTMENT OF PARKS

a. Gift Shops: The Cabinet will convert state park gift shops to shops that will enhance Kentucky's image through the display and sale of products reflecting the state's unique culture and heritage, while maintaining a positive revenue impact. Beginning in January 1995, the Tourism Cabinet shall provide a quarterly status report to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue summarizing the progress of the gift shop plan and the effect on revenues of changes made.

b. Golf Courses: The parks shall improve the quality of golf courses to a level which are similar with the standards set by the U.S. Golf Association.

c. Parks Revitalization: Any project contained in the Parks Revitalization Bond issue, which is contingent upon other matching funds, shall not be receive state-supported bonds until the Secretaries of the Tourism and the Finance and Administration Cabinets are satisfied that the matching funds are assured. Notwithstanding the provisions of KRS 45.760, 45.770, and 45.780, no project shall exceed the appropriated amount. Amounts in excess of those required to complete each authorized project shall be held as surplus bond proceeds until appropriated by the General Assembly. The General Assembly directs to the maximum extent possible and consistent with the Kentucky Model Procurement Code, bid specifications for the Parks Revitalization Bond Issue projects shall be prepared and advertised in such a way as to utilize Kentucky products, materials, and vendors in the construction and furnishing of Parks facilities.

41. STATE FAIR BOARD

a. Commonwealth Convention Center: Bonds may be sold effective January 1, 1995, or thereafter, contingent upon the availability of nonstate revenue for the Commonwealth Convention Center expansion project in the amount of $25,000,000. State construction funds, prior to the sale of bonds, shall not be disbursed until such time as the Secretary of the Tourism Cabinet and the Secretary of the Finance and Administration Cabinet are satisfied that the local match is assured.

b. Ashton-Adair neighborhood: The State Fair Board is authorized to acquire a portion of the property known as the Ashton-Adair neighborhood, as well as the benefit of other public improvements, from the Jefferson County Regional Airport Authority in accordance with a contractual agreement to be executed between the Commonwealth and the Regional Airport Authority. The contractual agreement shall define the nature and value of the public assets to be exchanged between the Regional Airport Authority and the Commonwealth.

TRANSPORTATION

42. GENERAL ADMINISTRATION AND SUPPORT

a. Six-Year Road Plan Information System: $70,000 is provided in fiscal year 1994-95 to upgrade the Six Year Road Plan Information System. This upgrade shall include providing the ability to access project contract amounts and numbers. All information is this system shall be made available electronically to the Legislative Research Commission.

43. AIR TRANSPORTATION

a. Airport Development: General Fund moneys are provided in fiscal year 1994-95 in the amount of $90,000 to support a study of a Gallatin County reliever airport. $750,000 of General Fund moneys shall be expended from the projected $2,500,000 million in continued General Fund appropriated resources for the 1994-96 biennium for 10 Automated Weather Observation Systems (AWOS) in fiscal year 1994-95. Additionally, three Global Positioning Systems (GPS) navigational aids shall be funded during the 1994-96 biennium from the same continued General Fund appropriated resources and installed at three regional airports. Funding for the AWOS and GPS systems may be deferred if moneys are needed to match federal dollars for airport development.

44. HIGHWAYS

a. State /Local Assisted Bridge Program: $3,000,000 from the Road Fund is appropriated in fiscal year 1994-95 to support the State Assisted Bridge Program and shall be used to match local moneys on an 80:20 State:Local basis, to rehabilitate local bridges to a standard that will permit them to accommodate vehicular traffic. Notwithstanding KRS 45.229, the moneys appropriated for the State Assisted Bridge Program shall not lapse, but continue to be available for expenditures in fiscal year 1995-96.

WORKFORCE DEVELOPMENT

45. DEPARTMENT FOR THE BLIND PRIVATIZATION

a. Industries for the Blind: The Industries for the Blind is to be converted to a not-for-profit program. Appropriate funding is provided to initiate this process during the 1994-96 biennium. Full conversion is to occur by July 1, 2000, after which the Commonwealth will no longer provide General Fund support for the Industries for the Blind.

46. VOCATIONAL REHABILITATION

a. Higher Education Deaf and Hard of Hearing Student Access Program: The program to make public institutions of higher education more accessible to deaf and hard-of-hearing students is transferred from the Council on Higher Education to the

Department for Vocational Rehabilitation.

47. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

a. Higher Education Learning Disabled Student Access Program: A pilot program to enhance the postsecondary education of learning disabled students is initiated. This program shall be located at a public university designated by the Secretary of the Workforce Development Cabinet.

PART X

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	1993-94	1994-95	1995-96
General Fund	11,875,000	4,802,025,100	5,080,865,200
Restricted Funds	5,963,000	2,108,996,500	2,187,419,800
Federal Funds	6,216,800	3,510,688,200	3,638,800,600
Road Fund	3,000,000	901,465,700	888,452,500
Bond Funds		66,475,000	93,525,000
Subtotal	27,054,800	11,389,650,500	11,889,063,100

CAPITAL PROJECTS BUDGET

	1993-94	1994-95	1995-96
General Fund		14,421,000	8,425,000
Restricted Funds	1,000,000	330,753,700	141,742,500
Federal Funds	127,000	48,641,500	16,034,500
Bond Funds		295,238,700	69,342,000
Road Fund	100,000	5,432,000	2,957,000
Agency Bonds		42,330,000	
Capital Construction Surplus	500,000	550,000	2,050,000
Investment Income		9,000,000	6,410,000
Other Funds	5,205,000	81,315,000	1,500,000
Subtotal	6,932,000	827,681,900	248,461,000

BUDGET RESERVE TRUST FUND

	1993-94	1994-95	1995-96
General Fund	51,500,000	30,000,000	

TOTAL-STATE/EXECUTIVE BUDGET

	1993-94	1994-95	1995-96
General Fund	63,375,000	4,846,446,100	5,089,290,200
Restricted Funds	6,963,000	2,439,750,200	2,329,162,300
Federal Funds	6,343,800	3,559,329,700	3,654,835,100
Road Fund	3,100,000	906,897,700	891,409,500
Bond Funds		361,713,700	162,867,000
Agency Bonds		42,330,000	
Capital Construction Surplus	500,000	550,000	2,050,000
Investment Income		9,000,000	6,410,000
Other Funds	5,205,000	81,315,000	1,500,000
TOTAL FUNDS	85,486,800	12,247,332,400	12,137,524,100

The above capital projects are directly funded in Part II of this Act. The above Budget Reserve Trust Fund is directly funded in Part III of this Act.

The Committee on Elections and Constitutional Amendments reported **HB 10, HB 682, HB 877,** with Committee Substitute attached thereto, **SB 157** and **SB 185** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 10, AN ACT proposing to amend the Constitution of Kentucky relating to the ability of the General Assembly to punish the crime of sodomy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that the Constitution of Kentucky be amended to add a new Section 229A to read as follows:

The General Assembly shall define the crime of sodomy, and provide punishment for its commission, including between consenting persons.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 682, AN ACT relating to candidates in a regular election.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) If there is only one (1) nominee for a judicial office in a regular election and a vacancy occurs in that candidacy after the first Tuesday in August but before the ballots are printed for the regular election, candidates seeking to fill the vacancy shall file a petition for candidacy not later than 4 p.m. five (5) days after the vacancy occurred and the election shall be conducted in the manner provided in KRS 118A.100.

(2) If there is only one (1) nominee for a judicial office in a regular election and a vacancy occurs in that candidacy after the ballots are printed for the regular election but not later than the second Thursday preceding the regular election, candidates seeking to fill the vacancy shall file a petition for candidacy not later than 4 p.m. five (5) days after the vacancy occurred and the election shall be conducted as follows:

  (a) If the name of any candidate who filed a petition for candidacy can be placed upon the machine ballots or ballot cards, the county clerk shall equip the voting machines and ballot cards to accommodate the candidate's name and the election shall be conducted as provided in KRS 118A.100; or

  (b) If the name of any candidate who filed a petition for candidacy cannot be placed upon the machine ballots or ballot cards, the county clerk shall request approval to use supplemental paper ballots for voting for candidates for that office as provided in KRS 118.215(5), and, if approved, shall block out the names of candidates for that office on the voting machines or ballot cards and voting for that office shall be conducted with supplemental paper ballots, subject to the provisions of KRS 118.212.

  (c) All actions by a county clerk, the State Board of Elections, and the Secretary of State which are necessary to provide for voting at a regular election for nominees for an office for which there has been a vacancy in candidacy which may be filled pursuant to this section shall be carried out with all possible speed.

  (d) If a vacancy in candidacy described in subsection (2) occurs later than the second Thursday preceding the day of the regular election, no petitions for candidacy shall be filed and candidates may seek election by write-in voting pursuant to KRS 117.265.

Section 2. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

  (a) Not later than the third Tuesday in February preceding a primary;

  (b) Not less than twenty-five (25) days before a runoff primary;

  (c) Not later than the third Tuesday in August preceding a general election, the certification of candidates to federal office; and

  (d) Not later than the third Tuesday in August preceding a general election, the certification to include all candidates and slates of candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek.

The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. ***If the county clerk determines that the name of a candidate nominated to fill a vacancy in candidacy occurring after the ballots are printed cannot be placed on the machine ballot or ballot card, he shall notify the State Board of Elections as soon as that determination has been made.*** The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices***, offices for which all candidates cannot be placed on the machine ballot or ballot cards for an office,*** and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 3. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the second Tuesday in January preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal ***prior to the first Tuesday in August***, ~~[and the candidates have not been replaced as provided in KRS 118A.060,]~~ the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State not later than the first Tuesday in August preceding the day fixed by law for holding the regular election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the first Tuesday in August preceding the regular election.

(7) Not later than the third Thursday in August preceding the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

  (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

  (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

HB 877, AN ACT proposing a new section of the Constitution of Kentucky relating to the State Budget.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT THE FOLLOWING NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 171A. A board, to be known as the "Kentucky Emergency Budget Board" is hereby established. The Board shall be composed of thirteen members, which shall include the Speaker of the House, President of the Senate, two members of the majority party as appointed by House and Senate majority leaders, two members of the minority party, as appointed by House and Senate minority leaders, the Chief Justice of the Kentucky Supreme Court, or his designee, the Governor, and five other members of the executive branch, to be appointed by the Governor. The terms of the appointed members, and procedures for replacement of members shall be determined by the General Assembly.

The Board shall convene when specific revenue shortfall conditions, as determined by the General Assembly, occur. The Board shall have the sole authority to develop and adopt a plan to address any revenue shortfall meeting the conditions determined by the General Assembly. The Board shall have powers and duties as determined by the General Assembly; however, the Board shall have no authority to alter or amend appropriations enacted by the General Assembly, or to raise revenue.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 877** is as follows:

HB 877, AN ACT proposing a new section of the Constitution of Kentucky relating to the State Budget.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT THE FOLLOWING NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 171A. A board, to be known as the "Kentucky Emergency Budget Board" is hereby established. The Board shall be composed of thirteen members, which shall include the Speaker of the House; President of the Senate; two members of the majority party as appointed by House and Senate majority leaders; two members of the minority party as appointed by House and Senate minority leaders; the Chief Justice of the Kentucky Supreme Court, or his designee; the Governor; and five other members of the executive branch, to be appointed by the Governor. The terms of the appointed members and procedures for replacement of members shall be determined by the General Assembly.

The Board shall convene when specific revenue shortfall conditions, as determined by the General Assembly, occur. The Board shall have the sole authority to develop and adopt a plan to address any revenue shortfall meeting the conditions determined by the General Assembly. The Board shall have powers and duties as determined by the General Assembly including, but not limited to, approving recommendations by each branch head for meeting reductions necessitated by a revenue shortfall; adopting its own plan for altering agency allotments to meet a revenue shortfall; and, within each branch of government, reducing allotments, transferring available agency funds, and allotting funds from an emergency reserve fund created and funded by appropriations for that purpose by the General Assembly.

The Board shall have no power or authority to raise revenue or impose taxes.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

SB 157, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 242.100 is amended to read as follows:

Upon each day that ***a primary or regular*** ~~[an]~~ election is held, no place where alcoholic beverages are sold in the county in which the territory affected is situated shall be open at any time during the day. No person in that county shall sell, loan, furnish or give to any person any alcoholic beverage on that day.

Section 2. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four (24) hours of a Sunday, or during the hours the polls are open on any regular ***or***~~[,]~~ primary~~[, school, or special]~~ election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen, or other municipal legislative body of cities of the first, second, third, or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second, third, or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second, third, or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and subsections (2), (4), and (6) of this section, and that no distilled spirits or wine may be sold on any ***primary or regular*** election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (4) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first or second class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food.

(5) (a) Any hotel, motel, restaurant operation, convention center, or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.

(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185(1), may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by subsections (2) and (4) of this section. Such special licenses shall only be issued to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

Section 3. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (2), no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of 7 p.m. and 6 a.m. on any week day except Saturday, when the hours of deliveries shall be between 6 a.m. and midnight. No retailer shall sell, give away or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday or during the hours the polls are open on ***a primary or regular*** ~~[an]~~ election day.

(2) The legislative body of a city of the first, second, third or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power, subject to subsection (3), by ordinance, to establish the times in which malt beverages may be sold within its jurisdictional boundaries. The fiscal court of each county in which a city of the

first, second, third or fourth class is located shall have the exclusive power, subject to subsection (3), to establish the times in which malt beverages may be sold in that portion of the county which lies without the corporate limits of such a city, except any portion in which malt beverages are prohibited by KRS Chapter 242 from being sold.

(3) Notwithstanding subsections (1) and (2):

(a) The hours so fixed by the legislative body of a city of the first, second or third class, and by fiscal courts, shall not prohibit the sale, gift or delivery of any malt beverages between 6 a.m. and midnight during week days; and

(b) No malt beverages shall be sold on any ***primary or regular*** election day while the polls are still open.

SB 185, AN ACT relating to proposed constitutional amendments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.415 is amended to read as follows:

(1) ***The General Assembly may state the substance of the amendment proposed to the Constitution of Kentucky in the form of a question in a manner calculated to inform the electorate of the substance of the amendment.*** [~~When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made not later than the last Tuesday in July preceding the election at which the amendment is to be voted on.~~]

(2) The Attorney General shall***, if the General Assembly has not already done so,*** state the substance of ***an*** [~~the~~] amendment ***to the Constitution of Kentucky which has been proposed by the General Assembly*** in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and***, not later than the second Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen,*** shall certify the question to the Secretary of State to be placed on the voting machine.

(3) The Secretary of State, not later than the ***third*** [~~fourth~~] Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the ***General Assembly or by the*** Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(4)[~~(3)~~] The votes cast for and against the amendment shall be counted, canvassed, and certified to the State Board of Elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

[~~(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.~~]

The Committee on Cities reported **HB 381** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 381, AN ACT changing the classification of the City of Whitesburg, in Letcher County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Whitesburg, in Letcher County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Whitesburg in Letcher County, is transferred from the fifth to the fourth class of cities.

The Committee on Cities reported **HB 728**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 728, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any ***enforcement officer,*** department, employee, or advisory, elected***,*** or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or

horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in ~~[the above]~~ agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is ***specifically named in the zoning regulations*** ~~[essential to or would promote the public health, safety, or welfare]~~ in one (1) or more zones, ***and*** ~~[but]~~ which ***is subject to the imposition of conditions on location, size, extent, character of performance, or other conditions, in addition to the requirements of the zoning regulations for the zone in which it is located, to allow the proper integration of the use into the community, and to reasonably insure that the use will not*** ~~[would]~~ impair the integrity and character of the zone in which it is located, or in adjoining zones~~[, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation]~~;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into ~~[three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into]~~ two (2) or more lots or parcels~~[;]~~ for the purpose, whether immediate or future, of sale, lease, or building development, ***except*** ~~[or if a new street is involved, any division of a parcel of land; provided]~~ that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. ***Except to the extent that the planning commission adopts regulations pursuant to KRS 381.910, "subdivision" shall not mean the division of space within an existing or proposed building. The term includes any actions which result in the moving of lot lines,***

even if no additional lots are created ~~[The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section]~~;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Section 2. KRS 100.163 is amended to read as follows:

The planning commission shall conduct regular meetings as it deems necessary for the transaction of its business; but there shall be at least six (6) regular meetings annually. The schedule for regular meetings shall be expressed in the rules and regulations of the commission. Special meetings shall be held at the call of the chairman who shall give written or oral notice to all members at least ***twenty-four (24) hours*** ~~[seven (7) days]~~ prior to the meeting, which notice shall contain the date, time and place, and the subject or subjects which shall be discussed.

Section 3. KRS 100.203 is amended to read as follows:

Pursuant to the purposes set forth in KRS 100.201, cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

    (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

    (b) The size, width, height, bulk, location of structures, buildings and signs;

    (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

    (d) Intensity of use and density of population floor area to ground area ratios, or other means;

    (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

    (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; ~~[and]~~

    (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings; ***and***

    (h) Screening and buffering;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

    (a) Setback lines may be required for the protection of existing and proposed streets and highways;

    (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

    (c) Mobile homes and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

    (a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method ***by which the*** [~~whereby such~~] restrictions or conditions may be imposed, modified, removed, amended***,*** and enforced.

Section 4. KRS 100.217 is amended to read as follows:

(1) Before any zoning regulation may have legal effect within the planning unit, a board or boards of adjustment shall be appointed for the planning unit as stated in the agreement under which the unit operates. The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and that no territory is subject to the jurisdiction of more than one (1) board of adjustment, except as provided in KRS 100.203(5). ***The legislative body of the applicable city or county may designate the planning commission serving the planning unit to serve as the planning unit's board of adjustment. Any appeal from action of the planning commission acting as a board of adjustment shall be taken pursuant to subsection (1) of KRS 100.347.***

(2) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom ***shall*** [~~must~~] be citizen members, and not more than two (2) of whom may be citizen members of the planning commission***, unless the applicable city or county, within the planning unit, has designated the properly constituted planning commission to serve as the board of adjustment, as permitted in subsection (1) of this section***.

(3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies.

(4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(6) All members of boards of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.

(7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustment.

(8) Any member of a board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustment shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustment, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the Circuit Court of the county in which he resides.

(9) Notwithstanding subsection (4) of this section, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, if the board is not reorganized pursuant to subsection (1) of this section, the mayor, and county judge/executive with approval of the fiscal court, shall adjust the terms of the sitting members to provide that the terms of one-third (1/3) plus one (1) of the members expire in one (1) year, the terms of one-third (1/3) of the members in two (2) years and the terms of one-third (1/3) of the members expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(10) Each board of adjustment annually shall elect a chairman, vice chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for reelection at the expiration of his term.

Section 5. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

(1) The board may approve, modify, or deny any application for a conditional use permit***, except that the board may not deny the specific location of an essential service listed as a conditional use when the use, in its specific location, is essential to promote the public health, safety, or welfare; however, the board may otherwise modify or impose conditions on the essential uses***. If ***the board*** [~~it~~] approves ***a conditional use*** [~~such~~] permit, it may attach necessary conditions, such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any [~~such~~] conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. [~~Furthermore,~~] The board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for ***the*** [~~such~~] cost.

(2) Granting of a conditional use permit ***shall*** [~~does~~] not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official ***may*** [~~shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to~~] inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has ***not substantially complied*** [~~taken no steps to comply with them between the date of the report and the date of the hearing~~], the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes ***or take other actions it deems necessary to insure compliance with the conditions***.

(5) [~~Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.~~

~~(6)~~] When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected, within any county containing a city of the first class, an owner of every parcel of property adjoining the property to which the application applies and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(6)[~~(7)~~] When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

Section 6. KRS 100.261 is amended to read as follows:

Appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any ***administrative official*** [~~zoning enforcement officer~~]. ***The*** [~~Such~~] appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official by filing with ***the*** [~~said~~] officer and with the board a notice of appeal specifying the grounds [~~thereof~~], and giving notice of ***the*** [~~such~~] appeal to any and all parties of record. ***The*** [~~Said~~] officer shall [~~forthwith~~] transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in [~~such~~] further proceedings. At the public hearing on the appeal held by the board, any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

Section 7. KRS 100.337 is amended to read as follows:

The commission ***or administrative official*** shall have a cause of action for all appropriate relief including injunctions against any governmental bodies or any [~~aggrieved~~] person who violates this chapter or regulations adopted hereunder.

Section 8. KRS 100.991 is amended to read as follows:

(1) Any person or entity who violates any of the provisions of KRS 100.201 to 100.347 or any of the regulations adopted pursuant thereto for which no other penalty is provided, shall upon conviction, be fined not less than ten dollars ($10) but not more than five hundred dollars ($500) for each conviction. Each day of violation shall constitute a separate offense.

(2) Any person, owner or agent who violates this chapter shall, upon conviction, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.

(3) Any person who intentionally violates any provision of KRS 100.3681 to 100.3684 shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) A commission***, fiscal court, or legislative body*** may appoint enforcement officers who shall have authority to issue citations for violations of this chapter which the officer has observed, but shall not have powers of peace officers to make arrests or carry deadly weapons. ***The commission, fiscal court, or legislative body may determine which of these violations may be prepaid and the minimum fine to be assessed for each violation that may be prepaid. Citations issued for prepayable violations shall state the time and manner in which the prepayment may be made. If a prepayable citation is not paid by the date designated on the citation, the defendant shall appear in District Court at the time and place designated on the citation*** [~~The defendant shall appear within a designated time pursuant to the citation.~~

~~(5) The procedure for citations issued by an enforcement officer shall be as provided in KRS 431.015~~].

The Committee Amendment No. 1 to **HB 728** is as follows:

On page 4, line 19, by deleting the underlined language and inserting and underlining in lieu thereof, "***seventy-two (72) hours***"; and

On page 14, line 18, by placing a closing bracket after the period ".]"; and

On page 14, lines 19 and 20, by deleting the strikethroughs and closing bracket.

The Committee on Natural Resources and Environment reported **HB 633**, with Committee Substitute attached thereto, **SB 49**, **SB 52**, **SB 208** and **SB 249** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 633, AN ACT relating to Section 401 water quality certifications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 16 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall issue Section 401 water quality certifications in accordance with the same criteria, restrictions, conditions, and applicable notification procedures specified in nationwide permits numbers 1 through 40 as issued by the United States Department of the Army, Corps of Engineers under authority of Section 401 of the Federal Clean Water Act (33 U.S.C. 1251 et seq.) as amended. If the Corps of Engineers issues additional future nationwide permits under Section 401 of the Clean Water Act, the cabinet shall issue required Section 401 water quality certifications in accordance with the same criteria, restrictions, conditions, and notification procedures specified in the nationwide permits. A Section 401 water quality certification shall not be required by the cabinet for activities which would not be deemed by the Department of the

Army, Corps of Engineers or other applicable federal regulatory agency as requiring an individual permit for the proposed activity.

The Committee Substitute to **HB 633** is as follows:

HB 633, AN ACT relating to Section 401 water quality certifications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 16 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to the cabinet's issuance, waiver, or denial of water quality certifications for surface coal mining operations, as defined in KRS 350.010, if:

(a) The applicant for the water quality certification has applied to the cabinet for a permit in accordance with KRS Chapter 350 and the administrative regulations promulgated pursuant thereto;

(b) The applicant for the water quality certification is eligible for Nationwide Permit 21 or 26 issued in accordance with 33 U.S.C. 1344 and 33 C.F.R. Part 330, Appendix A;

(c) The applicant's surface coal mining operation will not impact waters of the Commonwealth designated by the cabinet in its water quality standards as outstanding state or national resource waters or as cold water aquatic habitat; and

(d) The applicant's surface coal mining operation will not impact waters of the Commonwealth which are wetlands one (1) acre or more in size.

(2) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to Nationwide Permit 21 or 26 is less than four hundred eighty (480) acres for the surface coal mining operation meeting the criteria of subsection (1) of this section, the cabinet shall issue a water quality certification containing only the standard conditions set out in paragraphs (a) to (e) of this subsection.

(a) All earthwork operations shall be carried out so that sediment runoff and soil erosion to waters of the Commonwealth are controlled and minimized. Best management practices for water pollution control shall be used by the surface coal mining operation.

(b) Heavy equipment, such as bulldozers, backhoes, and draglines, shall not be used or operated within waters of the Commonwealth outside of the boundaries of a permanent structure, unless that use cannot be avoided. If use of heavy equipment within waters of the Commonwealth outside the boundaries of a permanent structure is unavoidable, then the work shall be performed so as to minimize resuspension of sediments and disturbance to substrates, banks, or riparian vegetation.

(c) Measures shall be taken to prevent and to control spills of fuels, lubricants, and other materials from entering waters of the Commonwealth.

(d) Any fill or riprap shall be of a composition that shall not cause violations of water quality standards by adversely affecting the biological, chemical, or physical properties of waters of the Commonwealth. If riprap is used, it shall be of a weight and size that bank stress or slump conditions shall not occur.

(e) Removal of riparian vegetation outside the boundaries of a permanent structure shall be minimized.

(3) (a) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to Nationwide Permit 21 or 26 is greater than or equal to four hundred eighty (480) acres for the surface coal mining operation meeting the criteria of subsection (1) of this section, the cabinet may require a water quality certification containing conditions in addition to those standard conditions identified in subsection (2) of this section for the purpose of protecting water quality.

(b) The water quality certification may require mitigation at a maximum ratio of one (1) acre of mitigation area for every one (1) acre of permanent loss of waters of the Commonwealth on the permitted area, except for waters of the Commonwealth isolated as a result of the permanent structure.

(c) For waters of the Commonwealth isolated as a result of a permanent structure, the maximum mitigation ratio shall be five-tenths (0.5) acre of mitigation area for every one (1) acre of those isolated waters.

(d) The cabinet shall accept mitigation on the permitted area, mitigation off the permitted area, mitigation banking of waters of the Commonwealth, or any combination thereof, or any other mitigation measure acceptable to the cabinet.

(e) Upon completion of all mitigation work required by the water quality certification required by this subsection, the surface coal mining operation shall obtain a certification from a registered professional engineer that all mitigation work has been completed in accordance with the conditions of the water quality certification. The surface coal mining operation shall promptly submit the professional engineer's certification to the cabinet. The cabinet shall promptly review the certification and provide to the surface coal mining operation written

notice that all mitigation work has been successfully completed, or that further mitigation work is necessary to meet the conditions imposed by the water quality certification.

(4) The cabinet shall not require a water quality certification for a road crossing on the permitted area impacting less than two hundred (200) linear feet of waters of the Commonwealth.

(5) The cabinet shall confer with representatives of the surface coal mining industry and representatives of environmental organizations with an interest in water quality in developing a manual of approvable options for mitigation on permitted areas, mitigation off permitted areas, mitigation involving banking of waters of the Commonwealth, and removal of temporary sediment structures at surface coal mining operations as a mitigation option.

(6) (a) The cabinet shall have ten (10) working days to make a determination that an application for a water quality certification is administratively complete or to notify the applicant of specific deficiencies.

(b) The cabinet shall have forty (40) working days to review an administratively complete application for a water quality certification, to issue or waive that certification, or to deny that certification with specific deficiencies identified, and to notify the applicant of the final determination. If the cabinet has not notified the applicant of its final determination within forty (40) days of receiving an administratively complete application, the water quality certification shall be deemed waived.

(7) Nothing in this section shall be construed as abrogating the cabinet's ability to require water quality certifications for surface coal mining operations that do not meet the criteria of subsection (1) of this section.

SB 49, AN ACT relating to radioactive waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds:

(a) That the Central Midwest Interstate Low-Level Radioactive Waste Compact was enacted by the State of Illinois and the Commonwealth of Kentucky to provide the instrument and framework for a cooperative effort, and to provide sufficient facilities for the proper management of low-level radioactive waste generated within the region, limiting the number of facilities, protecting the health and safety of citizens, and promoting the volume and source reduction of low-level radioactive waste generated in the region, and for other purposes.

(b) That it is the responsibility of each party state to the compact to prescribe and enforce penalties against any person who is not an officer of another state for violation of any provision of the compact.

(2) It is the purpose of Sections 1 to 6 of this Act to establish a program by which these sections and the provisions of the compact may be implemented and enforced.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the compact requires otherwise:

(1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;

(4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;

(5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;

(6) "Low level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act, but shall not include naturally occurring radioactive material (NORM). This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;

(7) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region;

(8) "Naturally-occurring radioactive material and waste" means any nuclide that is radioactive in its natural physical state (i.e., is not man-made) but does not include source, by-product, or special nuclear material;

(9) "Person" means any individual, corporation, business enterprise, or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity;

(10) "Region" means the geographical area of the State of Illinois and the Commonwealth of Kentucky;

(11) "Regional facility" means any facility as defined in this section that is located in Kentucky, and established by Kentucky pursuant to designation of Kentucky as a host state by the commission;

(12) "Storage" means the temporary holding of radioactive material for treatment or disposal; and

(13) "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise authorized by the commission;

(a) After the effective date of this Act, no person shall deposit at a facility in Kentucky any waste not generated within the region.

(b) After the effective date of this Act, no person shall accept at a facility in Kentucky waste not generated within the region.

(c) No person shall deposit at any regional facility in Kentucky any waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(d) No person shall accept at any regional facility in Kentucky any waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(e) No person shall export from the region waste that is generated in Kentucky, other than waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(f) No person shall dispose of waste in Kentucky except at a regional disposal facility.

(g) No person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of waste from outside the region shall dispose of any waste, regardless of origin, at a facility in Kentucky without prior specific approval by the commission.

(2) No person shall treat or store waste at a facility other than a regional facility, if the treatment or storage is prohibited by the commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall promulgate administrative regulations to administer and enforce the provisions of Sections 3 to 6 of this Act. The administrative regulations shall be promulgated with the consultation and cooperation of the commission.

(2) Administrative regulations promulgated by the cabinet shall prohibit the shipment into or acceptance of waste in Kentucky if the shipment or acceptance would result in a violation of any provision of the compact or Sections 3 to 5 of this Act.

(3) The cabinet may, by administrative regulation, impose conditions on the shipment into or acceptance of waste in Kentucky that the cabinet determines to be reasonable and necessary to enforce the provisions of Sections 3 to 5 of this Act. The conditions may include, but are not limited to:

(a) Requiring prior notification of any proposed shipment or receipt of waste;

(b) Requiring the shipper or recipient to identify the location to which the waste will be sent for disposal following treatment or storage in Kentucky;

(c) Limiting the time that waste from outside of Kentucky may be held in Kentucky;

(d) Requiring the shipper or recipient to post bond, or by other mechanisms assure, that radioactive material will not be treated, stored, or disposed of in Kentucky in violation of any provisions of Sections 3 to 5 of this Act; and

(e) Requiring that the shipper consent to service of process before shipment of waste into Kentucky.

(4) The administrative regulations promulgated by the cabinet may provide for the granting of exemptions, but only upon a showing by the applicant that the granting of an exemption would be consistent with the compact.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Any person who fails to comply with any provision of KRS 211.859 or Section 3 of this Act, or with any

administrative regulations promulgated pursuant to KRS 211.859 or Section 4 of this Act, or fails to comply with any order of the cabinet issued pursuant to KRS 211.859 or Sections 3 and 4 of this Act shall be assessed a civil penalty not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000). Each day of the violation or noncompliance shall constitute a separate offense.

(2) Any person who fails to pay a civil penalty imposed pursuant to subsection (1) of this section, or any portion of that penalty, shall be liable in a civil action in an amount not to exceed four (4) times the amount imposed and not paid. Any civil penalties recovered shall be deposited into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of Sections 3 to 6 of this Act.

(3) Any person who intentionally violates a provision of Section 3 of this Act shall be guilty of a Class D felony.

(4) At the request of the cabinet, the Attorney General shall, on behalf of the Commonwealth of Kentucky, bring an action for the recovery of any civil penalty or the prosecution of any criminal offense in violation of Sections 3 to 4 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The cabinet may accept donations of money, equipment, supplies, materials, and services from any person for accomplishing the purposes of Sections 1 to 6 of this Act. Any donation of money shall be deposited into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of Sections 1 to 6 of this Act and shall be expended by the cabinet only in accordance with the purposes of the donation.

Section 7. This Act may be cited as the Radioactive Waste Compact Enforcement Act.

SB 52, AN ACT relating to the Central Midwest Interstate Compact on Low-Level Radioactive Waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly concurs in and ratifies Executive Order 93-494, relating to radiation control by the Cabinet for Human Resources and other state agencies through interstate agreements.

Section 2. KRS 211.859 is amended to read as follows:

The Central Midwest Interstate Low-Level Radioactive Waste Compact is approved in the form as follows:

ARTICLE I

POLICY AND PURPOSE

There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (Title 42 U.S.C. Sec. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. [~~The party states acknowledge that Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities.~~] The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

(a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

(1) Providing the instrument and framework for a cooperative effort;

(2) Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

(3) Protecting the health and safety of the citizens of the region;

(4) Limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiently;

(5) Promoting the volume and source reduction of low-level radioactive waste generated in the region;

(6) Distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

(7) Ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

(8) Promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radioactive waste than shallow-land burial facilities.

(b) Implicit in the congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

(1) Expeditious enforcement of federal rules, regulations and laws;

(2) Imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

(3) Timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II.

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

(b) "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

(c) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

(d) "Eligible state" means either the State of Illinois or the Commonwealth of Kentucky.

(e) "Extended care" means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

(f) "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

(g) "Generator" means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

(h) "Host state" means any party state that is designated by the commission to host a regional facility, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than ten percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state.

(i) "Institutional control" means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control of the disposal site to the state or federal government.

(j) "Long-term liability" means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

(k) "Low-level radioactive waste" or "waste" means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954. ***This definition shall apply notwithstanding any declaration by the federal government, a state, or any regulatory agency that any radioactive material is exempt from any regulatory control.***

(l) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment and disposal of waste within the region.

(m) "Manifest" means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

(n) "Party state" means any eligible state which enacts the compact into law and pays the membership fee.

(o) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

(p) "Region" means the geographical area of the party states.

(q) "Regional facility" means ***any*** [~~a~~] facility ***as defined in Article II(f) that*** [~~which~~] is ***(1)*** located within the region***,*** and ***(2)*** [~~which is~~] established by a party state pursuant to designation of that state as a host state by the commission.

(r) "Shallow-land burial" means a land disposal facility in which radioactive waste is disposed of in or within the upper thirty meters of the earth's surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth's surface.

(s) "Site" means the geographic location of a facility.

(t) "Source reduction" means those administrative practices that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

(u) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the

Virgin Islands or any other territorial possession of the United States.

(v) "Storage" means the temporary holding of waste for treatment or disposal.

(w) "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

(x) "Volume reduction" means those methods including, but not limited to biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

(y) "Waste management" means the source and volume reduction, storage, transportation, treatment or disposal of waste.

ARTICLE III

THE COMMISSION

(a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the commission shall consist of two voting ***commissioners*** [~~members~~] from each state eligible to be ***designated*** a host state ***under Article VI(b)***, one voting ***commissioner*** [~~member~~] from any other party state, and ***for each regional facility, one*** [~~an ex officio~~] non-voting ***commissioner who is an elected official of local government and a resident of the county where that regional facility is located*** [~~member who is a member of the county board of or who is a county commissioner of each host county~~]. The governor of each party state shall notify the commission in writing of its ***commissioners*** [~~members~~] and any alternates.

(b) Each ***voting commissioner*** [~~commission member~~] is entitled to one vote. No action of the commission is binding unless a majority of the ***voting*** [~~total~~] membership casts its vote in the affirmative. ***In addition, no agreement by the commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3) is valid unless all voting commissioners from the party state in which the facility where the waste would be sent is located cast their votes in the affirmative.***

(c) The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the federal Administrative Procedure Act (Title 5 U.S.C. Secs. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

(d) The commission shall meet at least once annually and shall also meet upon the call of ***any voting commissioner***[~~the chairperson or a commission member~~].

(e) All meetings of the commission and its designated committees shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any ***voting commissioner***[~~member or the presiding officer~~].

(f) The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management, waste generation and source and volume reduction.

(g) The office of the commission shall be in ***Illinois***[~~the first state eligible to be a host state~~]. The commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

(h) All files, records and data of the commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

(i) The commission may:

(1) Enter into an agreement ***with any person to allow waste from outside the region to be disposed of at facilities in the region. However, no such agreement shall be effective unless and until ratified by a law enacted by the party state to which the waste would be sent for disposal***[~~or contract with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. No person may use a regional facility for waste generated outside the region unless both a majority of the members of the commission and all members from the host state in which any affected regional facility is located vote in favor of permitting such use. No person in the region may use a storage, treatment or disposal facility outside the region without prior commission approval. No such agreement or contract shall be valid unless specifically approved by a law enacted by the legislature of the host state~~].

(2) ***Enter into an agreement with any person to allow waste described in Article VII(a)(6) to be treated, stored, or disposed of at regional facilities. However, no such agreement shall be effective unless and until ratified by a law enacted by the host state of the regional facility where the waste would be sent for treatment, storage, or disposal***[~~Approve the disposal of waste generated within the region at a facility other than a regional facility~~].

(3) ***Enter into an agreement with any person to allow waste from outside the region to be treated or stored at facilities in the region. However, any such agreement shall be revoked as a matter of law if, within one (1) year of the effective date of the agreement, a law is enacted ordering the revocation by the party state where the waste would be sent for treatment or storage.***

(4) Approve, or enter into an agreement with any person for, the export of waste from the region.

(5) Approve the disposal of waste generated within the region at a facility in the region other than a regional facility, subject to the limitations of Articles V(f) and VII(a)(6).

(6) Require that waste generated within the region be treated or stored at available regional facilities, subject to the limitations of Articles V(f), VII(a)(3), and VII(a)(6).

(7) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence or other participation.

(8)[~~(4)~~] Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than ten percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the ten percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

(9)[~~(5)~~] Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

(10)[~~(6)~~] Suspend the privileges or revoke the membership of a party state.

(j) The commission shall:

(1) ***Submit within ten (10) days of its execution to the Governor and the appropriate officers of the legislative body of the party state in which any affected facility is located a copy of any agreement entered into by the commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3).***

(2) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission. ***The annual report shall include a description of the status of the activities taken pursuant to any agreement entered into by the commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3), and any violation of any provision thereof, and a description of the source, volume, activity, and current status of any waste from outside the region or waste described under Article VII(a)(6) that was treated, stored, or disposed of in the region in the previous year.***

(3)[~~(2)~~] Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

(4)[~~(3)~~] Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

(5)[~~(4)~~] Adopt an annual budget.

(k) Funding of the budget of the commission shall be provided as follows:

(1) Each state, upon becoming a party state, shall pay $50,000 to the commission which shall be used for the administrative costs of the commission.

(2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

(A) Be sufficient to cover the annual budget of the commission; and

(B) Be paid to the commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection.

(l) The commission shall keep accurate accounts of all receipts and disbursements. The commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of commission funds and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this Article.

(m) The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the commission. The commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

(n) The commission is not liable for any costs associated with any of the following:

(1) The licensing and construction of any facility;

(2) The operation of any facility;

(3) The stabilization and closure of any facility;

(4) The extended care of any facility;

(5) The institutional control, after extended care of any facility; or

(6) The transportation of waste to any facility.

(o) The commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. ***Commissioners*** [~~Members of the commission~~] are not personally liable for actions taken by them in their official capacity.

(p) Except as provided under ***Article III(n), Article III(o), Article VI(p), and Article VI(q)***[~~paragraphs (n) and (o) of this Article~~], nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.

(q) Any person aggrieved by a final decision of the commission[~~,~~] which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within sixty days after the commission's final decision, to obtain judicial review of said final decision.

ARTICLE IV

REGIONAL MANAGEMENT PLAN

The commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the commission shall:

(a) Adopt procedures for determining, consistent with considerations of public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

(b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

(c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or underground injection well.

(d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the commission's response to public and party state comment.

ARTICLE V

RIGHTS AND OBLIGATIONS OF PARTY STATES

(a) Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

(b) Other than the provisions of Article V(f) ***and Article VII(a)(6)***, each party state has the right to have all wastes generated within its borders managed at regional facilities***. This right shall be*** subject to the provisions ***of this compact*** [~~contained in Article IX(b) and IX(c)~~]. All party states have an equal right of access to any facility ***outside the region*** made available to the region by any agreement entered into by the commission pursuant to Article III (i)***(4)***[~~(1)~~].

(c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to commission approval under Article III (i)***(4)***[~~(1)~~].

(d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

(e) Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

(f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to ***any*** [~~the regional~~] facility ***in Illinois*** for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and ***such waste*** shall not be subject to the provisions of ***Article IX(b)(3) and (4) of*** this compact.

ARTICLE VI

DEVELOPMENT AND OPERATION OF FACILITIES

(a) Any party state may volunteer to become a host state, and the commission may designate that state as a host state.

(b) If all regional facilities required by the regional management plan are not developed pursuant to ***Article VI***[~~section~~] (a), or upon notification that an existing regional facility will be closed, the commission may designate ***a party state as*** a host state. ***A party state shall not be designated as a host state for any regional facility under this Article VI(b) unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than ten percent (10%) of the total volume recorded on those manifests for the region during the same year. In determining the ten percent (10%) exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage, or disposal of such waste, or waste described in Article VII(a)(6).***

(c) [~~A party state shall not be selected as a host state for any regional facility unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than ten percent of the total volume recorded on such manifests for the region during the same year. In determining the ten percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.~~

~~(d)~~] Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.

(d)[~~(e)~~]Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. The commission may relieve a party state of this responsibility [~~only~~] upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders ***or for other good cause shown and consistent with the purposes of the compact***.

(e)[~~(f)~~] After a state is designated a host state by the commission, it is responsible for the timely development and operation of a regional facility.

(f)[~~(g)~~] To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

(g)[~~(h)~~] The commission may designate a party state as a host state while a regional facility is in operation if the commission determines that an additional regional facility is or may be required to meet the needs of the region.

(h)[~~(i)~~]Designation of a host state is for a period of twenty years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the commission may modify the period of its designation.

(i)[~~(j)~~] A host state may establish a fee system for any regional facility within its borders. The fee system shall be ***reasonable*** [~~responsible~~] and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to, the planning, siting, licensure, operation, pre-closure corrective action or clean-up, monitoring, inspection, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the commission.

(j)[~~(k)~~] A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal government thereby has assumed responsibility to provide for the extended care of such facility.

(k)[~~(l)~~] A host state intending to close a regional facility located within its borders shall notify the commission in writing of its intention and the reasons. Notification shall be given to the commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the commission in writing within three ***(3)*** working days of its action and shall, within thirty ***(30)*** working days of its action, demonstrate justification for the closing.

(l)[~~(m)~~] If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than ten percent ***(10%)*** of the total volume recorded on ***the*** [~~such~~] manifests for the region during the same year. In determining the ten percent ***(10%)*** exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste***, or waste described in Article VII(a)(6)***.

(m)[~~(n)~~] A party state which is designated as a host state by the commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.

(n)[~~(o)~~] The host state shall create an "Extended Care and Long-Term Liability Fund" and shall allocate sufficient fee revenues, received pursuant to Article VI***(i)***[~~(j)~~], to provide for the costs of:

(1) Decommissioning and other procedures required for the proper closure of a regional facility;

(2) Monitoring, inspection and other procedures required for the proper extended care of a regional facility;

(3) Undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility;

(4) Compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate moneys in this fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this fund; ***this Article VI(n)*** [~~this section~~] shall in no manner limit the financial responsibilities of the site operator ***under*** [~~pursuant to~~] Article VI***(o),*** [~~(p) and~~] the party states ***under Article VI(p)***, or any ***person who sends waste to a*** [~~other states which contract to dispose of wastes at the~~] regional facility, ***under*** [~~pursuant to~~] Article VI(q).

(o)[~~(p)~~] The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI***(n)***[~~(o)~~] for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain moneys from such insurance prior to using moneys from the Extended Care and Long-Term Liability Fund.

(p)[~~(q)~~] All party states[~~, or any other states which contract to dispose of wastes at the regional facility,~~] shall be liable for the cost of extended care and long-term liability in excess of moneys available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI***(n)***[~~(o)~~] and from the property and third-party liability insurance as set forth in Article VI***(o)***[~~(p)~~]. A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability [~~for such party state~~] shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than ten percent ***(10%)*** of the total volume recorded on such manifests for the region during the same year.

(q) Any person who sends waste from outside the region or waste described in Article VII(a)(6) for treatment, storage, or disposal at a regional facility shall be liable for the cost of extended care and long-term liability of that regional facility in excess of the moneys available from the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). The extent of the liability for the person shall be based on the proportionate share of the total volume of waste sent by that person to the regional facility.

ARTICLE VII

OTHER LAWS AND REGULATIONS

(a) Nothing in this compact:

(1) Abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

(2) Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

(3) Prohibits any storage or treatment of waste by the generator on its own premises;

(4) Affects any administrative or judicial proceeding pending on the effective date of this compact;

(5) Alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

(6) ***Establishes any right to the*** [~~Affects the generation,~~] treatment, storage or disposal ***at any facility in the region or provides any authority to prohibit export from the region*** of waste ***that is owned or*** generated by the ***United States*** [~~atomic energy defense activities of the secretary of the U.S.~~] Department of Energy***, owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon***[~~or successor agencies or federal research and development activities as defined in Title 42 U.S.C. Sec. 2021~~]; or

(7) Affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with

this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

(8) Requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

(9) Alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

(b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

(c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

(d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal ***of*** [~~for~~] waste ***from*** [~~generated~~] outside the region shall be allowed to dispose of ***any*** [~~such~~] waste***, regardless of origin, in the region*** [~~at a regional facility~~] unless specifically ***permitted under an agreement entered into*** [~~approved~~] by the commission ***in accordance with*** [~~pursuant to~~] the ***requirements*** [~~provisions~~] of Article III(i)(1).

ARTICLE VIII

ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

(a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

(b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

(c) The commission is formed upon the appointment of ***the commissioners*** [~~commission members~~] and the tender of the membership fee payable to the commission by the eligible states. The governor of Illinois shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the commission and implement the provisions of this compact.

(d) Other than the special circumstances for withdrawal in section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the commission and to the governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

(e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every five years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region ***under*** [~~pursuant to~~] Article III(i)***(4)***[~~(1)~~].

(f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within ninety days of the date the governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The governor of the withdrawing state shall give notice in writing to the commission and to the governor of each party state. A state which withdraws from the compact under this section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after ninety days and prior to fulfilling its obligations shall be assessed a sum the commission determines to be necessary to cover the costs borne by the commission and remaining party states as a result of that withdrawal.

ARTICLE IX

PENALTIES

(a) Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

(b) Unless [~~otherwise~~] authorized by the commission pursuant to Article III(i), ***or otherwise provided in this compact,*** after January 1, 1986 it is a violation of this compact;

(1) For any person to deposit at a [~~regional~~] facility ***in the region*** waste ***from outside*** [~~not generated within~~] the region;

(2) For any [~~regional~~] facility ***in the region*** to accept waste ***from outside*** [~~not generated within~~] the region;

(3) For any person to export from the region waste ***that*** [~~which~~] is generated within the region; or

(4) For any person to dispose of waste at a facility other than a regional facility***;***

(5) For any person to deposit at a regional facility waste described in Article VII(a)(6); or

(6) For any regional facility to accept waste described in Article VII(a)(6).

(c) ***It is a violation of this compact for any person to treat or store waste at a facility other than a regional facility if such treatment or storage is prohibited by the commission under Article III(i)(6).***

(d) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

(e)[~~(d)~~]Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

ARTICLE X

SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

SB 208, AN ACT relating to the remining of surface coal mining operations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under ***administrative*** regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under ***administrative*** regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and ***administrative*** regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and ***administrative*** regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(14).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Unanticipated event or condition" as used in subsection (7) of Section 2 of this Act means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).

Section 2. KRS 350.085 is amended to read as follows:

(1) No application for a permit and no operation shall be approved or allowed by the cabinet if there is found on the basis of the information set forth in the application that the requirements of this chapter or ***administrative*** regulations will not be

observed or that there is not probable cause to believe that the proposed method of operation, backfilling, grading, or reclamation of the affected area can be carried out consistent with the purpose of this chapter.

(2) If the cabinet finds that the overburden on any part of the area of land described in the application for a permit is such that experience in the Commonwealth with a similar type of operation upon land with similar overburden shows that substantial deposition of sediment in stream beds, landslides, or acid water pollution cannot feasibly be prevented, the cabinet may delete the part of the land described in the application upon which that overburden exists.

(3) Subject to valid existing rights, no surface coal mining operations except those which existed on or before August 4, 1977, shall be permitted within three hundred (300) feet from any occupied dwelling unless waived by the owner, nor within three hundred (300) feet of any public building, school, church, community, or institutional building, public park, or within one hundred (100) feet of a cemetery. The cabinet shall not issue a permit if it finds that the operation will constitute a hazard to or do physical damage to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public property. The cabinet shall delete the areas from the permit application or operation.

(4) Subject to valid existing rights, no surface coal mining operations except those which existed on or before August 4, 1977, shall be permitted within one hundred (100) feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join the right-of-way line. The cabinet shall permit the roads to be relocated or the area affected to lie within one hundred (100) feet of the road if, after public notice and opportunity for public hearing in the locality, a written finding is made that the interest of the public and the affected land owner will be protected, and shall not approve the application for a permit where the surface coal mining operation will adversely affect a wild river established pursuant to KRS Chapter 146, a state park or place listed on the National Register of Historic Places unless adequate screening and other measures as approved by the cabinet are incorporated into the permit application.

(5) Subject to valid existing rights, no surface coal mining operations except those which existed on August 4, 1977, shall be permitted on any privately owned lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act and national recreation areas designated by act of Congress.

(6) If based on the information provided pursuant to KRS 350.060(3)(h) and other relevant information, the cabinet finds that any surface coal mining and reclamation operation owned or controlled by the applicant is currently in violation of this chapter or other requirements listed pursuant to KRS 350.060(3)(h), the cabinet shall not issue the permit or permit renewal until the applicant submits proof satisfactory to the cabinet that the violation has been corrected or is in the process of being corrected. It shall be grounds to deny a permit or permit renewal if the cabinet, based on any information available to it and after a hearing, makes a finding that the applicant, or the operator specified in the application has demonstrated a pattern of willful violations pursuant to KRS 350.130(3).

(7) The prohibition of subsection (6) of this section shall not apply to a permit applicant with a violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for and under a permit for remining held by the applicant. As used in this subsection, the term "violation" has the same meaning as the term has under subsection (6). The authority of this subsection shall terminate on September 30, 2004.

Section 3. KRS 350.095 is amended to read as follows:

(1) The permittee shall assume responsibility for successful revegetation as required in KRS 350.435 for a period ***of five (5) full years after the last year in which augmented seeding, fertilizing, irrigation, or other work occurs*** ~~[defined pursuant to regulations promulgated by the cabinet]~~. The ***cabinet shall promulgate administrative*** regulations ***which*** shall include provisions to assure compliance with KRS 350.435, 350.093, and other applicable provisions. The cabinet may by ***administrative*** regulation set forth different requirements when it approves a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan.

(2) On lands eligible for remining, the permittee shall assume the responsibility for successful revegetation for a period of two (2) full years after the last year in which augmented seeding, fertilizing, irrigation, or other work occurs in order to assure compliance with the applicable standards. The authority of this subsection shall terminate on September 30, 2004.

Section 4. KRS 350.560 is amended to read as follows:

(1) Lands and water eligible for reclamation or drainage abatement expenditures under the Abandoned Mine Lands Program are those which were mined for coal or which were affected by coal mining, wastebanks, coal processing, or other coal mining processes, and were abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under the provisions of this chapter. ***Surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for reclamation and restoration under this chapter after the release of the bond or deposit for a remining operation as provided under KRS 350.093. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this chapter may be used if the amount of the bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the cabinet shall immediately exercise its***

authority under KRS 350.585.

(2) If the cabinet determines that the reclamation priority, under the priorities of KRS 350.555(1) and (2), of a site is the same or more urgent than the priority of sites under subsection (1) of this section, the following sites shall also be eligible for reclamation or drainage abatement expenditures:

(a) Unreclaimed sites which were mined for coal or which were affected by coal mining, waste banks, coal processing, or other mining processes and left in an inadequate reclamation status during the period beginning August 4, 1977, and ending May 18, 1982, for which the bond, or other form of financial guarantee, was insufficient to provide adequate reclamation or abatement of the site; or

(b) Unreclaimed sites which were mined for coal or which were affected by coal mining, waste banks, coal processing, or other coal mining processes and left in an inadequate reclamation status during the period beginning on August 4, 1977, and ending on or before November 5, 1990, where the surety for the permittee became insolvent during the period, and as of November 5, 1990, funds immediately available from proceedings relating to the insolvency, or from other sources have been insufficient to provide for adequate reclamation and abatement at the site.

(3) Sites under subsection (2) in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community shall be given priority.

(4) Up to thirty percent (30%) of the funds allocated to the Commonwealth through annual grants from the Secretary of the Interior may be expended for the purposes of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, subsections (1) and (2), above, shall not be construed to prohibit use of funds for the purposes of this subsection, if the adverse effects occurred predominantly prior to August 3, 1977.

(5) Where the Governor has made a certification under KRS 350.553 and the Secretary of the Interior has concurred in the certification, the reclamation categories of KRS 350.553(2) shall take effect, supplanting the categories of subsections (1), (2), and (4) above.

SB 249, AN ACT relating to surface coal mining operations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. ***Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles.*** The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or

construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any ***individual*** [~~persons~~], partnership, corporation, association, society, joint stock company, firm, company, or other business organization; ***and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly owned utility or publicly owned corporation of federal, state, or local government;***

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(14).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

Section 2. KRS 350.0301 is amended to read as follows:

(1) ***Any person who considers himself aggrieved by any determination made by the cabinet under this chapter may file, in accordance with administrative regulations promulgated by the cabinet under the provisions of this chapter, a petition alleging that the determination is contrary to law or fact and is injurious to him, the grounds and reasons therefor, and demand a hearing. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could reasonably have had notice.***

(2) All hearings, other than conferences, under this chapter shall be held before a hearing officer, duly qualified to practice law in the Commonwealth of Kentucky, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record and their attorney of record to the proceeding, and they shall be granted the right to file exceptions thereto within fourteen (14) days of service. Any party may submit a written response to exceptions within twenty-one (21) days of service of the report and recommended order. Exceptions and responses not timely filed shall be noted and made a part of the record but shall not be considered by the secretary in making a final order. The secretary shall consider the report, exceptions, and recommended order and decide the case. The decision shall be served by mail upon all parties and their attorney of record and shall be a final order of the cabinet.

(3)[~~(2)~~] Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. The record of the hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original.

(4)[~~(3)~~] All hearings conducted pursuant to this chapter shall be open to the public [~~except as may be ordered by the hearing officer~~].

(5)[~~(4)~~] The cabinet shall promulgate administrative regulations, pursuant to the provisions set forth in this chapter, establishing formal and informal hearing procedures by which any hearing shall, upon the written request of the operator, permittee, or person, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The administrative regulations shall provide for the conduct of hearings and investigation of any matter relating to the regulation of surface coal mining and reclamation operations; provide for the assessment and payment of civil penalties, including the placement of proposed civil penalty assessments into an escrow account prior to a formal hearing on the amount of the assessment; and provide for a waiver of the placement of the proposed civil penalties into escrow for those individuals who demonstrate with substantial evidence an inability to pay the proposed civil penalties into escrow. The procedures developed pursuant to this subsection shall provide that the hearings be held in the most expeditious manner possible within the time constraints established under this chapter. No person who presided at a prior hearing shall either preside at a subsequent hearing or participate in any further decision or subsequent administrative appeal in the same matter.

(6)[~~(5)~~] The cabinet may promulgate administrative regulations pursuant to the provisions set forth in this chapter establishing procedures for the holding of administrative conferences needed to implement the provisions of this chapter.

Section 3. KRS 350.0305 is amended to read as follows:

[~~(1) Any person who considers himself aggrieved by any determination made by the cabinet under this chapter may file, in accordance with regulations promulgated by the cabinet under the provisions of this chapter, a petition alleging that the determination is contrary to law or fact and is injurious to him, the grounds and reasons therefor, and demand a hearing. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could reasonably have had notice.~~

~~(2)~~] Any party aggrieved by a final order resulting from the hearing conducted pursuant to ***KRS 350.0301(1) on cabinet determinations*** [~~this section~~] may appeal to the Franklin Circuit Court***; except that judicial review of a final order resulting from a hearing on the issuance of a notice of noncompliance, the issuance of an order for cessation and immediate compliance, the assessment of civil penalties, or a bond forfeiture shall be in accordance with KRS 350.032***. The appeal shall be taken within thirty (30) days from the rendition of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and shall assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the cabinet. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that the record is its entire original record or a true copy. The record, when filed, shall become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties, upon proper showing, and in the discretion of the court, be permitted to intervene. The court shall review the entire record and the findings and final order of the cabinet. No objection to the final order shall be considered by the court unless it was raised before the cabinet or there were reasonable grounds for failure to do so. The findings of the cabinet as to the facts, if supported by substantial evidence, shall be conclusive. The commencement of the proceedings under this section shall not operate as a stay of the cabinet's final order unless specifically ordered by the court. Appeals to the Court of Appeals from orders of the Circuit Court shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 4. KRS 350.032 is amended to read as follows:

(1) In case of refusal to obey a subpoena issued to any person, any Circuit Court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to appear before the cabinet, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(2) Any person aggrieved by a final order of the cabinet ***resulting from a hearing on the issuance of a notice of noncompliance, the issuance of an order for cessation and immediate compliance, the assessment of civil penalties, or a bond forfeiture*** may obtain a review of the order by filing in the ***Franklin*** Circuit Court ***or the Circuit Court*** of the county within which the mine is located, within thirty (30) days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part, provided that a surety on a performance bond shall not file such petition until it has complied with subsection (3) of this section. A copy of the petition shall be forthwith served upon the cabinet, and thereupon the cabinet shall certify and file in court a copy of the record before the cabinet, including therein all pleadings, orders, documentary exhibits and the stenographic transcript of the testimony taken before the cabinet. When these have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the cabinet or there were reasonable grounds for failure to do so. The findings of the cabinet as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearings before the cabinet, the court may order that additional evidence be taken before the cabinet in such manner and upon such condition as the court may consider proper. The cabinet may modify its findings as to the facts, by reason of the additional evidence so taken; and it shall file any modified or new findings with the court, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of the proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the cabinet's order. An appeal may be taken from the judgment of the Circuit Court to the Court of Appeals on the same terms and conditions as an appeal is taken in any civil action.

(3) Where the cabinet has ordered forfeiture of a performance bond, the surety shall forward to the cabinet by certified mail a cashier's check for the required amount within seven (7) business days from the effective date of the order. The cabinet shall establish an interest-bearing escrow account and shall deposit therein the full amount of the forfeiture rendered by the surety. The amount shall continue to be held by the cabinet until completion of judicial review as authorized in subsection (2) of this section. If the final decision following the review reverses the order of the secretary of the cabinet, the cabinet shall within thirty (30) days of receipt of such order, refund to the surety the appropriate amount plus all interest accrued from the date of deposit to the date of the final order.

(4) In the case of a proceeding to review any order or decision issued by the secretary under this chapter pertaining to surface coal mining operations, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

  (a) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

  (b) The person requesting ***the*** [~~such~~] relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

  (c) ***The*** [~~Such~~] relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

Section 5. KRS 350.255 is amended to read as follows:

[~~(1)~~]Any person may petition the secretary of the Natural Resources and Environmental Protection Cabinet to initiate a proceeding for the issuance, amendment, or repeal of any regulation under this chapter.

(1)[~~(a)~~] Notice and an opportunity shall be provided for the petitioner and any person wishing to participate to be heard at a public hearing within thirty (30) days following the filing of the petition on the facts, technical justification, and law alleged in the petition.

(2)[~~(b)~~] The secretary shall render a final order in writing within thirty (30) days after the hearing granting or denying the petition on grounds that there is a reasonable basis for the petitioned rule change, or is not, or that it is required or prohibited by law and setting forth the reasons for the decision.

(3)[~~(c)~~] The secretary shall initiate a rulemaking proceeding pursuant to KRS Chapter 13A within thirty (30) days after a petition is granted proposing the issuance, amendment, or repeal of the petitioned regulations in conformity with the final order.

(4)[~~(d)~~] Any participant in the petition proceedings may seek review in the Circuit Court of Franklin County of a final order of the secretary denying all or any portion of the action requested in a petition.

[~~(2) The cabinet shall promulgate regulations pursuant to the provisions set forth in this chapter establishing formal and informal hearing and conference procedures whereby any such hearing or conference shall upon the written request of the permittee, operator, or person be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The procedures developed pursuant to this subsection will provide that the hearings and conferences be held in the most expeditious manner possible within the minimum time constraints established under this chapter; all such actions shall be adjudicatory in nature; and no person who presided at a prior hearing or conference shall either preside at a subsequent hearing in the same matter or participate in any further decision or any subsequent administrative appeal. No regulation or administrative practice relating to conferences or hearings shall authorize the imposition or collection of a civil penalty, or the compromise of a dispute relating to an alleged violation, by any cabinet personnel other than an independent, impartial hearing officer in the course of a formal or informal hearing or conference.~~]

Calendar

HB 678, HB 755, HB 856, HB 591, HB 690, HB 697, HB 699, HB 764, HB 926, HB 940, HCR 48, HCR 67, HCR 70, HCR 73, SB 141, SB 158, SB 193, HB 324 and **HB** 924 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 815 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 110**, by Representative Damron:

On page 1, line 14, after the word "*centers*", by inserting the following: "***which regularly provide day care for thirteen (13) or more children***";

On page 2, line 9, by deleting "*1*" and inserting in lieu thereof "*2*";

On page 6, line 15, by removing the brackets and strikethroughs around the following words: "cabinet shall promulgate administrative regulations to impose";

On page 6, lines 16, 17, and 18, by deleting the underlined words;

On page 6, line 18, by removing the brackets and strikethroughs around the word "ratios"; and

On page 6, line 18, after the period, by inserting the following: "***The actual staff-child ratio for each home shall be posted in a prominent location within the home.***".

Floor Amendment No. 3 to **SB 221**, by Representative Reinhardt:

On page 2, following line 7, by inserting:

"*(3) No less than four (4) nor more than six (6) of the persons appointed to serve on the Personnel Steering Committee shall be employees with status under KRS Chapter 18A.*

(4) (a) The employees with status under KRS Chapter 18A who are appointed to the Personnel Steering Committee shall be appointed by the Governor from lists provided by state employee organizations as set forth in paragraph (b) of this subsection.

(b) Any state employee organization having at least two hundred fifty (250) members on January 1, 1994, whose dues are payroll deducted, may submit the names of two (2) employees with status to the Governor on or before fifteen (15) days after the effective date of this Act. From these lists the Governor shall select:

1. One (1) member from the list submitted by the state employee organization having the largest number *of members whose dues are payroll deducted;*

2. One (1) member from the list submitted by the state employee organization having the next to largest number of members whose dues are payroll deducted; and

3. The remaining two (2) or four (4) members, whichever the case may be, from the remaining lists. "; and

On page 2, line 8, by deleting "*(3)*" and inserting "*(5)*" in lieu thereof; and

On page 2, line 11, by deleting "*(4)*" and inserting "*(6)*" in lieu thereof.

Floor Amendment No. 9 to **HB 928**, by Representative Deskins:

On page 48, line 27, by adding "*(a)*" after "*(4)*"; and

on page 49, after line 12, by adding:

"*(b) Notwithstanding any other provision of this chapter, an award for income benefits under this chapter shall be reduced in an amount sufficient to preserve, without reduction, any amount awarded under the federal Social Security Act.*".

Floor Amendment No. 1 to the Committee Substitute to **HB 374**, by Representative Nunn:

On page 1, line 7, after "all" by inserting "*county attorneys,*";

On page 1, line 7, by deleting the brackets and strikethroughs around the word "and" and around the period;

One page 1, line 7, after "sheriffs" by deleting the underlined comma;

On page 1, line 8, by deleting the brackets and strikethroughs;

On page 1, line 9, by placing brackets and strikethroughs around the words "county attorneys,";

On page 1, line 9, by deleting the underlined period and deleting the brackets and strikethroughs around "; and";

On page 1, line 10, by deleting all of the underlined language and deleting the brackets and strikethroughs around "(b)";

On page 1, line 11, by deleting the brackets and strikethroughs around "(a) or (b)";

On page 1, lines 14 and 15, by deleting the underlined language;

On page 1, line 18, by deleting the brackets and strikethroughs around "and (2)";

On page 1, line 20, by deleting the brackets and strikethroughs around "(a) or (b)";

On page 1, lines 21 and 22, by deleting the underlined language;

On page 8, by deleting lines 12 through 27 in their entirety; and

On page 9, by deleting lines 1 through 7 in their entirety.

Floor Amendment No. 1 to **SB 152**, by Representative Gedling:

On page 2, after line 3, add a new Section 2 to read as follows:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "funeral procession" means two (2) or more vehicles accompanying the body of a deceased person when each of the vehicles has its headlights lighted or is displaying a pennant attached to each vehicle in a manner that is clearly visible to approaching traffic.

(2) A vehicle in a funeral procession shall have the right-of-way at an intersection and may proceed through the intersection if the procession is headed by a lead or escort vehicle displaying yellow, red, or blue flashing lights, unless one (1) or more of the following conditions exist:

(a) The right-of-way is required by an authorized emergency vehicle defined by KRS 189.910 giving an audible signal;

(b) The vehicles in the procession are directed otherwise by a police officer or safety officer; or

(c) The vehicle is a train or locomotive.

(3) Before assuming the right-of-way, the operator of a vehicle in a funeral procession shall exercise due caution with regard to crossing traffic.

(4) The operator of a vehicle that is not in a funeral procession shall not drive the vehicle between the vehicles in the procession or otherwise interfere with the progress of the procession, unless:

(a) The operator is authorized to do so by a police officer or safety officer; or

(b) The vehicle is an authorized emergency vehicle defined by KRS 189.910 giving an audible signal authorized by KRS 189.920.

(5) The operator of a vehicle that is not a part of a funeral procession shall not illuminate the vehicle's headlights or engage in any other act for the purpose of securing the right-of-way granted by law to funeral processions.

(6) (a) The lead vehicle, the hearse, or other vehicle in a funeral procession may be equipped with flashing amber lights that may be used while the funeral procession is in progress and may be used to gain the right-of-way at an intersection, to protect the funeral procession while crossing an intersection, and to signal the end of a procession.

(b) A peace officer or safety officer authorized to use blue flashing lights or combination blue and red flashing lights pursuant to KRS 189.920 may use the lights and audible signals while accompanying a funeral procession to warn traffic that a funeral procession is approaching or that it is in progress.

(7) When a funeral procession is proceeding on a multiple lane highway, the operator of a vehicle that is not in the procession shall not pass or overtake any vehicle in the funeral procession unless:

(a) The operator of the vehicle is directed to pass or overtake the procession by a police officer;

(b) The multiple lane highway is outside the corporate limits of a city or urban-county government; or

(c) The multiple lane highway is an interstate.

(8) A person who violates the provisions of this section shall be guilty of a Class A misdemeanor."

Floor Amendment No. 2 to the Committee Substitute to **SB 1**, by Representative Collins:

On page 2, between lines 1 and 2, by inserting the following :

"***(5) If a vacancy occurs in the nomination of a candidate under the conditions of subsections (3) or (4) of this section after the ballots are printed for the regular election but not later than the second Thursday preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs.***

(6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265."; and

On page 2, line 2, before "(5)" by inserting "***(7)***" and by placing brackets around and striking through "(5)"; and

On page 2, between lines 3 and 4, by inserting the following:

"Section 2. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2), (3), and (4) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the absentee ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;

(f) Successful nominees of all nonpartisan primaries which shall have been conducted;

(g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;

(h) ***The county clerk shall determine whether the name of any replacement candidate who has been nominated*** *as provided in KRS 118.105(5) may be placed on the machine ballot or ballot cards and whether the voting machine may be reprogrammed to count the votes cast for that candidate or whether the ballot or ballot cards must be reprinted to accommodate votes cast for any replacement candidate and shall take the appropriate action to accommodate the replacement of any candidate. If the county clerk determines that the name of any replacement candidate cannot be accommodated on the existing ballot or ballot cards and if there is insufficient time before the election to reprint the entire ballot, the county clerk shall request approval to use supplemental paper ballots for voting for that office only in the same manner as permitted for other situations as provided in KRS 118.215(5), and, if approved, shall have an adequate number of supplemental paper ballots printed for voting for that office and only votes cast for that office by means of the supplemental paper ballots shall be tabulated and recorded by the precinct election officers and county board of elections. All actions by a county clerk, the State Board of Elections, and the Secretary of State which are necessary to provide for voting at a regular election for candidates nominated pursuant to KRS 118.105(5) shall be carried out with all possible speed. When a candidate has been replaced as provided in KRS 118.105(5) after absentee ballots have been printed and distributed for the regular election, neither the precinct election officers nor the county board of elections shall tabulate or record any absentee votes cast for the candidate who was replaced. If ballots are reprinted or supplemental paper ballots are printed, the costs for the printing shall be paid by the political party who has nominated a replacement candidate, or proportionately by each political party if each party nominates a replacement candidate* ~~[If a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district, or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If the ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames]~~;

(i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, if the certificate of nomination of the electors has been filed with the Secretary of State within the time prescribed in this chapter;

(j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210; and

(k) Candidates for city office for which no nonpartisan primary has been conducted in a city which requires nonpartisan city elections.

(2) Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

(3) Candidates for members of boards of education shall have their names printed on ballot labels and absentee ballots for the regular election only after filing as provided in KRS 160.220.

(4) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and absentee ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(5) No county clerk shall knowingly cause to be printed, upon the ballot labels or absentee ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

(6) The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

(7) When a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy."; and

On page 2, line 4, by deleting "2" and inserting in lieu thereof "3".

Floor Amendment No. 1 to **HB 588**, by Representative Coleman:

On page 12, line 9, after "education", by adding the following:

"*including one (1) representative from a private college or university offering an approved teacher preparation program*".

Orders of the Day

HB 152 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 152** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14 , 1994 roll call on **HB 152** - Appendix)

HB 152 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 152** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 190, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 190**. Agreed.

Representative Nunn moved that **HB 190**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 14, 1994 roll call on **HB 190** - Appendix)

HB 190, by way of Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 190**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 207, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute No. 2 to **HB 207**. Agreed.

Representative Lear moved that **HB 207**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14, 1994 roll call on **HB 207** - Appendix)

HB 207, by way of Committee Substitute No. 2, was passed.

Representative Lear moved the adoption of the Floor Title Amendment to the Committee Substitute No. 2 to **HB 207**. Agreed; and the title was agreed to.

Representative Lear moved that the vote by which **HB 207**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Committee Amendment No. 1 to **HB 377**. Agreed.

Representative Arnold moved that **HB 377**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 14, 1994 roll call on **HB 377** - Appendix)

HB 377, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 377**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 1**, by Representative Collins:

By amending the title to read "AN ACT relating to candidates in a regular election and declaring an emergency.".

Floor Amendment No. 2 to the Committee Substitute to **HB 390**, by Representative Bowling:

On page 5, lines 20 to 27, to delete the same, and

On page 6, lines 1 to 27, to delete the same, and

On page 7, lines 1 to 27, to delete the same, and

On page 8, lines 1 to 4 to delete the same, and

On page 8, line 5, to delete "10" and to insert in lieu thereof "9", and

On page 8, line 13, to delete "11" and to insert in lieu thereof "10", and

On page 8, line 27, to delete "12" and to insert in lieu thereof "11", and

On page 12, line 2, following "(7)" to add "***If the offense the person presently stands convicted of is a Class A, B, or C felony,***", and

On page 12, lines 5 to 27, to delete the same, and

On page 13, line 1, to delete the same.

Floor Amendment No. 10 to **HB 771**, by Representative Cyrus:

On page 34, line 16, by deleting "***thousand dollars ($1,000)***" and removing brackets before and after and strikethrough from "hundred dollars ($100)"; and

On page 34, lines 16 to 17, by deleting "***ten thousand dollars ($10,000)***" and removing brackets before and after and strikethrough from "one thousand dollars ($1,000)".

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 269, HB 420** and **SB 37** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:23 p.m.)

HB 269 and **HB 420** delivered to the Senate and signed by the President. Delivered to the Governor on March 14 at 4:55 p.m.

Orders of the Day (Continued)

HB 380, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 380**. Agreed.

Representative Barrows moved that **HB 380**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 7. (See March 14, 1994 roll call on **HB 380** - Appendix)

HB 380, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 380**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 483, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **HB 483**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 483**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 483**. Agreed.

Representative Lear moved that **HB 483**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 9. (See March 14, 1994 roll call on **HB 483** - Appendix)

HB 483, by way of Committee Substitute as amended, was passed.

Representative Lear moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 483**. Agreed; and the title was agreed to.

Representative Lear moved that the vote by which **HB 483**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 741 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 741** be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See March 14 , 1994 roll call on **HB 741** - Appendix)

HB 741 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 741** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 12 to **HB 771**, by Representative Bowling:

On page 21, line 18, before the word "***The***" by inserting the phrase "***No registrant shall be required to pay a fee for the investigation of any complaint filed against him or for the conduct of any disciplinary proceeding.***".

Floor Amendment No. 9 to **HB 771**, by Representative Maggard:

On page 24, line 18, after the word "years." by deleting the word and number "***Eight (8)***";
on page 24, line 18, by removing the brackets and strikethroughs from the word and number "Six (6)";
on page 24, line 27, after the word "least" by deleting the word and number "***five (5)***";
on page 24, line 27, by removing the brackets and strikethroughs from the word and number "four (4)";
on page 25, line 1, after the word "least" by deleting the word and number "***three (3)***";
on page 25, line 1, by removing the brackets and strikethroughs from the word and number "two (2)".

Floor Amendment No. 8 to **HB 771**, by Representative Worthington:

On page 7, line 20, before the letter "(c)" by removing the brackets and strikethroughs from the word "or";
on page 7, line 20, after the letter "(c)" by deleting the following: "***, (d),***";
on page 7, line 21, before the phrase "of this subsection" by deleting the phrase "***or (e)***";
on page 7, line 21, after the word "***a***" by deleting the word "***professional***";
on page 7, line 22, after the word "surveyor" by deleting the phrase "***after the applicant has passed the fundamental of land surveying***";
on page 7, by deleting line 23 in its entirety;
on page 7, line 24, before the colon ":" by deleting the phrase "***approved by the board***";
on page 8, line 4, after the word "graduate" by deleting the phrase "***of an approved course of study of land surveying from a board***";
on page 8, by deleting lines 5 to 27 in their entirety;
on page 9, by deleting lines 1 to 18 in their entirety;
on page 9, line 19, by deleting the phrase "***the accuracy and correctness of the land surveying work performed***";
on page 9, line 19, before the word "from" by deleting the beginning bracket;
on page 9, line 19, by removing the strikethroughs from the phrase "from an";
on page 9, lines 20 to 27, by removing all strikethroughs;
on page 10, line 4, after the word "board" by deleting the ending bracket;
on page 10, lines 1 to 4, by removing all strikethroughs;
on page 10, line 6, by deleting the phrase "***In consideration of the qualifications of***";
on page 6, by deleting lines 7 to 10 in their entirety;
on page 6, line 11, before the word "as" by deleting the phrase "***Until July 1, 2004***;
on page 10, line 16, after the word "by" by deleting the phrase "***subsection (2) (e)***";
on page 10, line 16, by removing the brackets and strikethroughs from the phrase "subsections (1) and (2) (b)";
on page 10, line 17, after the word "than" by deleting the phrase" ***as provided in subsections (2) (a), (b), and (c) of this section***;
on page 10, line 18, by removing the brackets and strikethroughs from the phrase "engineering and land surveying";

on page 10, line 20, by deleting the phrase "*subsections (2) (e)*"; and

on page 10, line 20, by removing the brackets and strikethroughs from the phrase "subsections (1) and (2) (b)".

Floor Amendment No. 7 to **HB 771**, by Representative Worthington:

On page 32, line 1, after the word "prepared." by deleting the phrase "*All easement documents*"; and

on page 32 by deleting lines 2 and 3 in their entirety.

Floor Amendment No. 6 to **HB 771**, by Representative Worthington:

On page 30, by deleting lines 26 and 27 in their entirety;

on page 31, by deleting line 1 in its entirety;

on page 31, line 2, before the beginning bracket, by deleting the phrase "*whose supervision the plat or description was prepared*";

on page 31, line 2, before the word "Each" by removing the beginning bracket;

on page 31, line 9, after the word "reissued" by removing the ending bracket;

on page 31, lines 2 to 9 by removing the strikethroughs;

on page 31, line 4, before the word "Professional" by placing brackets around and striking through the word "Registered";

on page 31, line 4, after the word "or "and the quotation mark, by inserting the word "*Professional*"; and

on page 31, line 4, before the word "Land" by placing brackets around and striking through the word "Registered";

Floor Amendment No. 2 to the Committee Substitute to **HB 647**, by Representative Barrows:

On page 56, after line 19, by adding the following:

"SECTION 36. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Immediately upon the effective date of this Act, every county clerk shall post a permanent notice that the fee increases contained in this Act were requested by the Kentucky County Clerks Association. The notice shall be printed in bold face type of sufficient point size to be read from a distance of at least three (3) feet. The notice shall be posted in a conspicuous place to ensure that every person who enters the county clerk's office will readily see the notice.".

Floor Amendment No. 1 to the Committee Substitute to **SB 255**, by Representative Donnermeyer:

On page 4, by deleting lines 6, 7, and 8.

Floor Amendment No. 1 to the Committee Substitute to **HB 361**, by Representative Farrow:

On page 2, line 7 after the number "*(5)*", by inserting the following: "*It is the public policy of the Commonwealth of Kentucky that liability coverage provided by motor vehicle insurance policies shall not be added to or stacked together to determine the limit of insurance coverage available to an insured or injured party.*

(6)".

Floor Amendment No. 2 to the Committee Substitute to **HB 361**, by Representative Farrow:

On page 1, by deleting lines 3 through 25 in their entirety and inserting in lieu thereof:

"*(1) Except as provided in subsections (3), (4), and (5), regardless of the number of motor vehicles involved, the number of persons covered or claims made, vehicles or premiums shown in the policy, premiums paid, or the number of policies, the limit of liability for any coverage shall not be added to or stacked upon limits for the coverage applying to other motor vehicles in the same household under the same or different policies to determine the amount of coverage available to an insured injured in any one (1) accident.*

(2) Uninsured motorist coverage as provided in KRS 304.20-020, underinsured motorist coverage as provided in KRS 304.39-140, and added reparations benefits as provided in KRS 304.39-140 shall not apply to bodily injury, sickness, disease, or death of an insured while occupying a motor vehicle owned by, furnished to, or available for the regular use of the insured, the insured's resident spouse, or resident relative, if that motor vehicle is not described in the

policy under which a claim is made.

(3) If a loss occurs when an insured person is occupying a vehicle not owned by the insured person, the insured person's resident spouse, or resident relative, or the insured person is a pedestrian, and the insured person has coverage available from more than one (1) policy providing uninsured motorist coverage as provided in KRS 304.20-010, underinsured motorist coverage as provided in KRS 304.39-320, or added reparations benefits as provided in KRS 304.39-140, the insured person may choose one (1) policy in the household to apply. The policy chosen shall apply as excess over any motor vehicle insurance policy in force on the nonowned vehicle.

(4) Nothing contained in this section shall be construed as placing a limitation on an insured person's right to have the liability coverage, as provided in KRS 304.39-110, provided on any one (1) of the insured person's motor vehicles from extending as excess coverage when the insured person is operating vehicles owned by persons who are not residents of his household. The insured person may choose one (1) policy in the household to apply.

(5) (a) All motor vehicle insurers shall offer and make available, pursuant to paragraphs (b) and (c) of this subsection, policies that allow the stacking of uninsured motorist coverage as provided in KRS 304.20-020, underinsured motorist coverage as provided in KRS 304.39-320, and added reparations benefits as provided in KRS 304.39-140. Every motor vehicle insurance policy shall prominently state, in a manner and form approved by the commissioner, whether the policy permits the stacking of the above coverages. In respect to policies issued after the effective date of this Act, the named insured's signature on a form approved by the commissioner shall establish a conclusive presumption of the named insured's receipt of the offer required by this subsection and choice of non-stacked or stacked coverages.

(b) Following the effective date of this Act, at the first renewal of each motor vehicle liability insurance policy in existence on the effective date of this Act, each insurer shall give notice, in a form and manner approved by the commissioner, to the named insured that he has the option to purchase a policy that permits the stacking of uninsured motorist coverage, underinsured motorist coverage, and added reparations benefits. The failure of the named insured to return a form indicating that he has selected the option to stack coverages and to pay the appropriate premium for stacked coverages shall establish a conclusive presumption of the named insured's choice of non-stacked coverages.

(c) The selection made by the named insured pursuant to paragraphs (a) and (b) of this subsection shall apply to any policy which renews, extends, and changes, supersedes or replaces an existing policy unless the named insured requests a change in the coverage and pays the appropriate premium for such coverage.

(6) This Act shall apply to policies issued or renewed on or after January 1, 1995."

On page 2, by deleting lines 1 through 8 in their entirety.

Floor Amendment No. 11 to **HB 771**, by Representative Cave:

On page 11, line 13, after the number "(1)" by deleting the letter "*(a)*";
on page 12, line 9, by deleting the letter "*(b)*";
on page 12, line 9, by removing the brackets and strikethroughs from the number "(2)";
on page 12, by deleting lines 20 to 27 in their entirety; and
on page 13, by deleting lines 1 to 25 in their entirety.

Floor Amendment No. 13 to **HB 771**, by Representative Bowling:

On page 21, line 20, by deleting Section 17 in its entirety and renumbering subsequent sections accordingly.

Floor Amendment No. 1 to **HB 685**, by Representative Rapier:

On page 21, line 16, after "trustees.", by adding the following "*A member may also obtain credit for part-time service performed prior to becoming a member upon payment of the amount determined for the member's contribution and an amount actuarially determined equal to the increased liability of the Teachers' Retirement System, if the service was at least half (1/2) time and occurred in the two (2) years preceding the individual's becoming a member of the retirement system.*".

Orders of the Day (Continued)

HB 754 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 754** be passed.

On the roll call the vote was: Yeas 75, Nays 13. (See March 14 , 1994 roll call on **HB 754** - Appendix)

HB 754 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 754** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 63 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HCR 63** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14 , 1994 roll call on **HCR 63** - Appendix)

HCR 63 was adopted.

Representative Burch moved that the vote by which **HCR 63** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 147, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved the adoption of the Committee Substitute to **HB 147**. Agreed.

Representative Hatcher moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 147**. Agreed.

Representative Hatcher moved that **HB 147**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 14, 1994 roll call on **HB 147** - Appendix)

HB 147, by way of Committee Substitute as amended, was passed.

Representative Hatcher moved the adoption of the Committee Title Amendment to **HB 147**. Agreed; and the title was agreed to.

Representative Hatcher moved that the vote by which **HB 147**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 796 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HB 796** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 14 , 1994 roll call on **HB 796** - Appendix)

HB 796 was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 796** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 107**, by Representative Riner:

On page 4, lines 23 and 24, after the word "***of***" on line 23, by deleting the following:

"***an offense under KRS Chapter 510, KRS 530.020, 530.064, or 531.310,*** " and inserting in lieu thereof the following:

"***a misdemeanor offense under KRS Chapter 510 involving a student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or*** ";

On page 6, line 24, after the "***Board.***" by inserting the following: "***However, the board shall permanently revoke the certificate of any certified employee who is convicted of or pleads guilty to a felony proscribed by KRS Chapters 510, 529, or 531.310 if the offense is based on conduct involving the certified employee and a child under eighteen (18) years of age.***"

On page 13, line 24, after "***the board.***", by adding the following: "***However, the board shall permanently revoke the license of any physician who is convicted of or pleads guilty to a felony proscribed by KRS Chapter 510, 529, or 531.310 if the offense is based on conduct involving the physician and a child under eighteen (18) years of age.***";

On page 15, lines 6 and 7, after the word "***of***" on line 6, by deleting the following:

"***an offense under KRS Chapter 510, KRS 530.020, 530.064, or 531.310***" and inserting in lieu thereof the following:

"***a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510,***

530.064, or 531.310";

On page 17, lines 24 and 25, after the word "***of***" on line 24, by deleting the following:

"***an offense under KRS Chapter 510, KRS 530.020, 530.064, or 531.310***" and inserting in lieu thereof the following:

"***a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310***";

On page 20, line 7, after "***the board.***", by inserting the following: "***However, the board shall permanently revoke the license of any nurse who is convicted of or pleads guilty to a felony proscribed by KRS Chapters 510, 529, or 531.310 if the offense is based on conduct involving the nurse and a child under eighteen (18) years of age.***";

On page 25, lines 22 and 23, after the word "***of***" on line 22, by deleting the following:

"***an offense under KRS Chapter 510, KRS 530.020, 530.064, or 531.310***" and inserting in lieu thereof the following:

"***a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee***";

On page 28, line 7, after "***the board.***" by inserting the following: "***However, the board shall permanently revoke the license or certificate of any licensee or certificate holder who is convicted of or pleads guilty to a felony proscribed by KRS Chapter 510, 529, or 531.310 if the offense is based on conduct involving the licensee or certificate holder and a child under eighteen (18) years of age.***";

On page 31, line 16, after "***the board.***" by inserting the following: "***However, the board shall permanently revoke the license or certificate of any social worker who is convicted of or pleads guilty to a felony proscribed by KRS Chapter 510, 529, or 531.310 if the offense is based on conduct involving the social worker and a child under eighteen (18) years of age.***".

On page 31, lines 20 and 21, after the word "***of***" on line 20, by deleting the following:

"***an offense under KRS Chapter 510, KRS 530.020, 530.064, or 531.310***" and inserting in lieu thereof the following:

"***a misdemeanor offense under KRS Chapter 510 involving a client or a felony offense under KRS Chapter 510, 530.064, or 531.310***"; and

On page 35, after line 9 by inserting the following:

"Section 17. KRS 312.019 is amended to read as follows:

(1) The board shall administer the provisions of this chapter and the administrative regulations promulgated by the board relating to the practice of chiropractic.

(2) The board shall pass upon the qualifications of applicants for a license, certification, or registration to practice chiropractic. It shall examine, license, certify, register, and renew the license, certification, or registration of duly qualified applicants.

(3) The board may deny, revoke, refuse to renew, or suspend any license, certification, or registration issued by it.

(4) The board shall adopt a seal which shall be affixed to all licenses, certifications, and registrations issued by the board and to such other documents as the board deems necessary.

(5) The board shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the administrative regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations promulgated by the board.

(6) The board may employ such personnel and incur such expenses as may be necessary for the performance of its duties and the enforcement of this chapter.

(7) The board may prescribe and collect reasonable fees for the issuance and renewal of licenses, certifications, and registrations and the administration of examinations as provided in KRS 312.095 and 312.175.

(8) The board may inspect at all reasonable times any chiropractic office or place where chiropractic services are performed.

(9) The board may promulgate and from time to time amend administrative regulations, consistent with the provisions of this chapter and in accordance with the provisions of KRS Chapter 13A, governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter and the proper performance of its duties, including but not limited to:

   (a) A code of ethical conduct governing the practice of chiropractic;

   (b) Requirements, standards, and examinations to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and certifications;

   (c) Matters pertaining to the content and conduct of examinations;

   (d) Matters pertaining to the operation and registration of chiropractic clinics;

   (e) Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic;

(f) The type and character of postgraduate study to be done by any licensee in order to comply with the provisions of KRS 312.175;

(g) Regulation of forms of advertising or solicitation that are false, misleading, or deceptive or otherwise in violation of this chapter. The board may require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising proposing or offering a series or course of treatments. The board may require that advertisements or solicitations stating coverage available from third-party payors include a conspicuous notice that persons may be required to submit to an independent evaluation which may result in a determination that the all or part of the services are unreasonable or unnecessary;

(h) Establishing a recommended course of pre-chiropractic education to be completed prior to entry into chiropractic college and the establishment of a preceptorship program for students enrolled in accredited chiropractic colleges that conform to KRS 312.085 to meet the standards of accreditation of the Council on Chiropractic Education.

(i) Registration and regulation of chiropractic management consultants operating in Kentucky. The board may impose annual registration fees not to exceed two hundred dollars ($200); and

(j) Establishing minimum standards for recordkeeping in chiropractic offices, the issuance of itemized statements, and requiring that any record or report include the name of the treating chiropractor.

(10) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a chiropractor licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if a chiropractor is falsely accused.

(11) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, the characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

Section 18. KRS 312.150 is amended to read as follows:

(1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:

(a) That fraud or deceit was used in securing the license;

(b) That the licensee no longer possesses a good moral character;

(c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;

(d) That the licensee solicits patients through an agent;

(e) That the licensee is addicted to the use of narcotic drugs or is a chronic alcoholic;

(f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;

(g) That the licensee has violated any of the provisions of this chapter, or any of the administrative regulations of the board;

(h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175; or

(i) That the licensee failed to provide an itemized statement to the patient immediately upon request.

(2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

(a) Gross ignorance of, or incompetence in, the practice of chiropractic;

(b) Performing unnecessary services;

(c) Charging a patient an unconscionable fee or charging for services not rendered;

(d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;

(e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal medicare law;

(f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given; ~~[or]~~

(g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge*; or*

(h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.

(3) Upon receipt and due consideration of such charges, the board upon an affirmative vote of a majority of its members shall determine whether the nature and quality of the charges are such that further investigation or initiation of formal or informal disciplinary proceedings against the charged licensee is indicated. If the board determines that disciplinary proceedings are appropriate the charges shall be set down for hearing at a future meeting of the board, and the charged licensee shall be notified of this action in writing and shall be furnished a copy of said charges at least twenty (20) days before the date set for the hearing.

(4) Except for revocation for nonrenewal, no license shall be revoked or suspended without a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization and containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.

(5) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the charged licensee not less than twenty (20) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the address of the licensee last known to the board.

(6) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board shall permanently revoke the license of any chiropractor who is convicted of or pleads guilty to a felony proscribed by KRS Chapter 510, 529, or 531.310 if the offense is based on conduct involving the chiropractor and a child under eighteen (18) years of age. The board may require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.".

Floor Amendment No. 10 to **HB 928**, by Representative DeWeese:

On page 39, after line 14, by adding:

"*(8) (a) The commissioner shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The commissioner may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.*

(b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.".

Floor Amendment No. 1 to the Committee Substitute to **SB 47**, by Representative Lindsay:

On page 4, line 11. following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 4, line 18, following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 5, line 3, following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 5, line 10, following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 5, line 21, following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 6, line 1, following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 6, line 12, following "*KRS 502.050*" to insert "*(1)(b)*"; and

On page 6, line 19, following "*KRS 502.050*" to insert "*(1)(b)*".

Floor Amendment No. 15 to **HB 771**, by Representative Lindsay:

On page 32, line 1, by deleting the following: "***All easement documents shall contain a plat. The plat shall depict the location, layout, and dimension of the easement area and shall be prepared by a professional land surveyor***" and inserting in lieu thereof the following: "***All recorded easement documents shall contain a physical written description of the property rights being conveyed. The description shall depict the location, layout, and dimensions of the easement area and is not subject to the Minimum Standards of Survey***".

Orders of the Day (Continued)

HB 509, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 509**. Agreed.

Representative Little moved that **HB 509**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 14, 1994 roll call on **HB 509** - Appendix)

HB 509, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 509**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to **HB 334**. Agreed.

Representative Johnson moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 334**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 334**. Agreed.

Representative Johnson moved that **HB 334**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 14, 1994 roll call on **HB 334** - Appendix)

HB 334, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 334**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 492, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Substitute to **HB 492**. Agreed.

Representative Hancock moved that **HB 492**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 5. (See March 14, 1994 roll call on **HB 492** - Appendix)

HB 492, by way of Committee Substitute, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 492**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 44, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of the Committee Substitute to **HB 44**. Agreed.

Representative Ridley moved that **HB 44**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14, 1994 roll call on **HB 44** - Appendix)

HB 44, by way of Committee Substitute, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 44**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 14 to **HB 771**, by Representative Lindsay:

On page 36, lines 4 to 16, by deleting section 39 in its entirety and renumbering subsequent sections accordingly.

Floor Amendment No. 11 to **HB 928**, by Representative Nunn:

On page 60, line 25, by deleting "***fifteen thousand dollars ($15,000)***" and by inserting "***ten thousand dollars ($10,000)***" after "***exceed***"; and

on page 63, after line 26, by adding:

"***(7) (a) In addition to the review of attorney's fees required in this section, an attorney for an employer in a case shall provide an affidavit to the administrative law judge at the conclusion of each case which shall include the following:***

1. The number of hours billed to the employer or carrier;

2. The hourly rate charged for handling, processing, or practicing the case;

3. The number of depositions and medical examinations with the cost of each;

4. Itemized amounts spent on telephone calls, photocopying, traveling, or other expenses;

5. The hourly rate charged for legal practice other than workers' compensation; and

6. The total amount billed to the employer or carrier.

(b) The administrative law judge shall review the affidavit required by paragraph (a) and apply the standards of review contained in this section that pertain to review of attorney's fees.".

Floor Amendment No. 12 to **HB 928**, by Representative Nunn:

On page 36, line 26, by deleting "***one hundred fifteen percent (115%)***", and inserting "***one hundred twenty-five percent (125%)***".

Orders of the Day (Continued)

HB 186, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Substitute to **HB 186**. Agreed.

Representative Arnold moved that **HB 186**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 14, 1994 roll call on **HB 186** - Appendix)

HB 186, by way of Committee Substitute, was passed.

Representative Arnold moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 186**. Agreed; and the title was agreed to.

Representative Arnold moved that the vote by which **HB 186**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 410**. Agreed.

Representative Deskins moved that **HB 410**, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 5. (See March 14, 1994 roll call on **HB 410** - Appendix)

HB 410, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 410**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 55, SB 280, SB 307** and **HB 297**. (Time: 5:15 p.m.)

Orders of the Day (Continued)

HB 491 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 491** be passed.

On the roll call the vote was: Yeas 43, Nays 27. (See March 14 , 1994 roll call on **HB 491** - Appendix)

HB 491 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 491** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 681**, by Representative Brown:

On page 2, line 16, after "*to*" by inserting "*any and all contents of an environmental audit report where*" and by deleting "*the*"; and

on line 17, before the "*:*" by deleting "*extent that*"; and

On page 3, line 6, after "*compliance*" by inserting "*with*"; and

on line 17, after "*compliance*" by inserting "*with*"; and

on line 21, after "*a*" by deleting "*compelling*" and after "*information*" by deleting "*, the*"; and

on lines 22 and 23 by deleting all the text thereon; and

on line 24, before the "*.*" by deleting all the text; and

On page 4, line 19, after "*Within*" by inserting "*twenty (20)*" and deleting "*thirty (30)*"; and

on line 21, after "*report*" by inserting "*, or the prosecuting authority,*"; and

on line 27, after "*within*" by inserting "*thirty (30)*" and deleting "*forty-five (45)*"; and

On page 5, line 3, after "*authority*" by inserting "*immediately*"; and

on line 20, after "*or*" by deleting "*otherwise*".

Floor Amendment No. 13 to **HB 928**, by Representative Bowling:

On page 32, lines 26 and 27, by deleting the new language; and

on page 33, line 1, by deleting "*Medicaid.*"; and

on page 36, lines 19 and 20, by bracketing and striking through "of a like standard of living in the same community and where such treatment is paid for by the injured person himself"; and

on line 19, after "persons" by adding "*in the same community for like services, where treatment is paid for by general health care insurers*"; and

on line 22, by deleting the new language; and by deleting lines 23, 24, 25, 26, and 27 in their entirety; and,

on line 22, after the "*.*", by adding:

"*On July 1, 1994 and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. On July 1, 1994, the schedule of fees contained in administrative regulations shall be reviewed with the objective of reducing medical costs and reimbursements for medical services provided under this chapter by at least ten percent (10%).*"; and

on page 37, by deleting lines 1 through 5 in their entirety.

Floor Amendment No. 16 to **HB 771**, by Representative Damron:

On page 18, line 1, by deleting the words "***stamp, seal, or***"; and

On page 18, line 1, after the word "***original***", by deleting the word "***seal,***".

Orders of the Day (Continued)

HB 497, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 497**. Agreed.

Representative Palumbo moved that **HB 497**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 78, Nays 10. (See March 14, 1994 roll call on **HB 497** - Appendix)

HB 497, by way of Committee Substitute, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 497**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 513, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 513**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 513**. Agreed.

Representative Geveden moved that **HB 513**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 14, 1994 roll call on **HB 513** - Appendix)

HB 513, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 513**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 555, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **HB 555**. Agreed.

Representative Scorsone moved that **HB 555**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See March 14, 1994 roll call on **HB 555** - Appendix)

HB 555, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 555**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 514, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Floor Amendment No. 1 to **HB 514**. Agreed.

Representative Crenshaw moved that **HB 514**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 6. (See March 14, 1994 roll call on **HB 514** - Appendix)

HB 514, as amended, was passed.

Representative Crenshaw moved the adoption of the Committee Title Amendment to **HB 514**. Agreed; and the title was agreed to.

Representative Crenshaw moved that the vote by which **HB 514**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 62, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Committee Amendment No. 1 to **HJR 62**. Agreed.

Representative Farrow moved that **HJR 62**, as amended, be adopted.

On the roll call the vote was: Yeas 96, Nays 0. (See March 14, 1994 roll call on **HJR 62** - Appendix)

HJR 62, as amended, was adopted.

Representative Farrow moved that the vote by which **HJR 62**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 568, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to **HB 568**. Agreed.

Representative Johnson moved that **HB 568**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 14, 1994 roll call on **HB 568** - Appendix)

HB 568, by way of Committee Substitute, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 568**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 571 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 571** be passed.

On the roll call the vote was: Yeas 74, Nays 12. (See March 14 , 1994 roll call on **HB 571** - Appendix)

HB 571 was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 571** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to allow Representative Richards to record a vote on **HJR 62**.

On the roll call to allow Representative Richards to record a vote on **HJR 62**, the vote was **Yeas 73**--Adams, Altman, Arnold, Ballard, Bentley, Bondurant, Bowling, Brown, Bruce, Burch, Butler, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Damron, Donnermeyer, Farley, Ford, French, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Long, Maggard, Maricle, Marzian, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Northup, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Trapp, Treesh, Turner, Walton, Wayne, Yates, Zimmerman. **Nays 8**--Ackerson, Allen, Bryant, Heleringer, Keith, Lindsay, Nunn, R. Smith.

The motion to allow Representative Richards to record a vote on **HJR 62** was adopted.

Representative Richards moved that he be recorded as voting "yea" on **HJR 62**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 17 to **HB 771**, by Representative Ford:

On page 3, by deleting lines 4 to 27 in their entirety;

on page 4, by deleting lines 1 to 27 in their entirety;

on page 5, by deleting lines 1 to 27 in their entirety;

on page 6, by deleting lines 1 and 2 in their entirety;

on page 6, line 3, by deleting the following: "***Registration for Professional Engineers and Land Surveyors***";

on page 7, line 20, before the letter "(c)" by removing the brackets and strikethroughs from the word "or";

on page 7, line 20, after the letter "(c)" by deleting the following: "***, (d),***";

on page 7, line 21, before the phrase "of this subsection" by deleting the phrase "***or (e)***";

on page 7, line 21, after the word "***a***" by deleting the word "***professional***";

on page 7, line 22, after the word "surveyor" by deleting the phrase "***after the applicant has passed the fundamental of land surveying***";

on page 7, by deleting line 23 in its entirety;

on page 7, line 24, before the colon ":" by deleting the phrase "***approved by the board***";

on page 8, line 4, after the word "graduate" by deleting the phrase "***of an approved course of study of land surveying from a board***";

on page 8, by deleting lines 5 to 27 in their entirety;

on page 9, by deleting lines 1 to 18 in their entirety;

on page 9, line 19, by deleting the phrase "***the accuracy and correctness of the land surveying work performed***";

on page 9, line 19, before the word "from" by deleting the beginning bracket;

on page 9, line 19, by removing the strikethroughs from the phrase "from an";

on page 9, lines 20 to 27, by removing all strikethroughs;

on page 10, line 4, after the word "board" by deleting the ending bracket;

on page 10, lines 1 to 4, by removing all strikethroughs;

on page 10, line 6, by deleting the phrase "***In consideration of the qualifications of***";

on page 6, by deleting lines 7 to 10 in their entirety;

on page 6, line 11, before the word "as" by deleting the phrase "***Until July 1, 2004***;

on page 10, line 16, after the word "by" by deleting the phrase "***subsection (2) (e)***";

on page 10, line 16, by removing the brackets and strikethroughs from the phrase "subsections (1) and (2) (b)";

on page 10, line 17, after the word "than" by deleting the phrase" ***as provided in subsections (2) (a), (b), and (c) of this section***;

on page 10, line 18, by removing the brackets and strikethroughs from the phrase "engineering or land surveying";

on page 10, line 20, by deleting the phrase "***subsection (2) (e)***"; and

on page 10, line 20, by removing the brackets and strikethroughs from the phrase "subsections (1) and (2) (b)";

on page 25 and 26, by deleting section 22 in its entirety and renumbering subsequent sections accordingly.

Floor Amendment No. 2 to **SB 92**, by Representative Curd:

On page 13, after line 23, by adding the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Office of Minority Educator Recruitment and Retention is established to increase the percentage of minority educators in the Commonwealth and to help retain those currently working in education. Its goals shall be:

- ***(a) Increase the percentage of minority educators in proportion to the number of minority students;***
- ***(b) Encourage an increase in the percentage of minority individuals on the staffs of all school districts;***
- ***(c) Create programs to identify minority students in grades seven (7) through twelve (12) with college potential;***
- ***(d) Increase the pool of minority educators through aggressive recruitment and financial assistance to candidates, including paraprofessionals, those with degrees or careers in other fields, and community college students; and***
- ***(e) Provide administrative support for networking among minority educators and for implementation of the strategic plan.***

(2) The office shall support efforts to improve and retain minority educators conducted by the Education Professional Standards Board, the Department of Education, the Council on Higher Education, the institutions of higher education, and local school districts.

(3) The staff of the office shall report to the Education Professional Standards Board and be employed by the board in accordance with the provisions of KRS Chapter 18A. The office shall be housed in the Department of Education.";

On page 13, line 24, after "Section", by changing "5" to "6";

On page 17, line 2, after "Section", by changing "6" to "7".

Floor Amendment No. 14 to **HB 928**, by Representative Stacy:

On page 33, line 1, after "***Medicaid***" by inserting "***, only if the employer meets the same criteria including, but not limited to volume, prompt payment or other factors that result in economic efficiencies to the provider which are met by other payors receiving such rates***"; and on page 38, line 20, by deleting the word "*section*" and by inserting "*chapter*" before the "*,*"; and

on page 34, after line 12, by inserting the following new subsection:

"*(h) Restrictions on provider selection imposed by a managed health care system shall not apply to emergency medical care.*"; and

on page 34, line 13, before "*All*" by inserting "*Except for emergency medical care,*".

Orders of the Day (Continued)

HB 580, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 580**. Agreed.

Representative Marzian moved that **HB 580**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 44, Nays 43. (See March 14, 1994 roll call on **HB 580** - Appendix)

HB 580, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 580**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 584 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HB 584** be passed.

Representative Collins moved that **HB 584** be laid on the Clerk's Desk. Rejected.

Representative LeMaster moved that **HB 584** be laid on the Clerk's Desk.

On the roll call that **HB 584** be laid on the Clerk's Desk, the vote was **Yeas 66**--Ackerson, Adams, Adkins, Arnold, Ballard, Barrows, Bentley, Bondurant, Bruce, Bryant, Callahan, Cave, L. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Deskins, DeWeese, Farley, Farrow, French, Gee, Gray, Hampton, Hancock, Harper, Jensen, Kerr, Lear, Lee, LeMaster, Lile, Lindsay, Little, Maggard, Moberly, Morris, Napier, Nelson, Nesler, Noland, Palumbo, Rapier, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Shacklette, Simpson, B. Smith, R. Smith, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Yates, Zimmerman. **Nays 21**--Allen, Altman, Bowling, Brown, Buis, Burch, Butler, P. Clark, Damron, Heleringer, Keith, Lewis, Long, Maricle, Marzian, Mason, McElroy, Mullinix, Nunn, Stacy, Worthington.

The motion that **HB 584** be laid on the Clerk's Desk was adopted.

Representative Stumbo moved that the rules be suspended to reconsider the vote by which **HB 580** was passed and place **HB 580** in the Orders of the Day today..

On the roll call to reconsider the vote by which **HB 580** was passed and place **HB 580** in the Orders of the Day today, the vote was **Yeas 72**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bruce, Bryant, Buis, Callahan, Cave, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Ford, French, Gedling, Graham, Hampton, Harper, Hatcher, Heleringer, Jensen, Keith, Kerr, Lear, Lee, LeMaster, Lile, Little, Long, Maggard, Maricle, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Nunn, Rasche, Reinhardt, Riggs, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Zimmerman. **Nays 16**--Bentley, Bondurant, Bowling, Brown, Burch, Butler, L. Clark, Gee, Geveden, Gray, Marzian, Nesler, Palumbo, Riner, Stacy, Yates.

The motion that the vote by which **HB 580** was passed be reconsidered and placed in the Orders of the Day today was adopted.

HB 580, with Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 580**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 46, Nays 51. (See March 14, 1994 roll call on **HB 580** - Appendix)

HB 580, by way of Committee Substitute, was defeated.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **SB 47**, by Representative Lindsay:

On page 4, line 11. following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 4, line 18, following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 5, line 3, following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 5, line 10, following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 5, line 21, following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 6, line 1, following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 6, line 12, following "***KRS 502.050***" to insert "***(1)(b)***"; and
On page 6, line 19, following "***KRS 502.050***" to insert "***(1)(b)***".

Floor Amendment No. 15 to **HB 928**, by Representative Treesh:

On page 32, lines 26 and 27, by deleting the new language; and
on page 33, line 1 by deleting "***Medicaid.***"; and
on page 36, line 22, by deleting the new language, and by deleting lines 23, 24, 25, 26, and 27 in their entirety; and
on line 22, after the "***.***", by adding:

"***On or before July 1, 1994, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and medical costs and reimbursements for medical services provided under this chapter shall be reduced by ten percent (10%).***"; and

on page 37, by deleting lines 1 through 5 in their entirety.

Floor Amendment No. 2 to the Committee Substitute to **HB 374**, by Representative Lindsay:

On page 6, line 24, after the underlined period by inserting the following: "***All funds received in excess of this amount shall be deposited to the credit of the general fund of the county.***";

On page 7, line 23, after "***rewards***" by inserting the following: "***and deposited to the credit of the general fund of the county pursuant to subsection (4) of this section***";

On page 7, line 27, after "***The county***" by deleting "***attorney***"; and

On page 8, line 3, by deleting "***attorney***".

Floor Amendment No. 1 to **SB 153**, by Representative Lindsay:

On page 2, line 14, following, "***the***" to insert "***criminal functions of the***"; and

On page 2, line 14, following "***office***" to insert "***as shown in the budget for the office approved by the Prosecutor's Advisory Council and the General Assembly through the executive branch appropriations act or budget memorandum and supporting documentation attached thereto***"; and

On page 2, line 14, following the period "***.***" to add the following:

"***Any fees collected during, or for, a fiscal year which exceed the amount budgeted for the operations of the criminal functions of the office as provided herein, shall forthwith be paid to the county treasurer for use by the county.***"

Floor Amendment No. 3 to the Committee Substitute to **HB 681**, by Representative Brown:

On page 3, line 6, after "***compliance***" by inserting "***with***"; and
on line 17, after "***compliance***" by inserting "***with***"; and
on line 21, after "***a***" by deleting "***compelling***" and after "***information***" by deleting "***, the***"; and
on lines 22 and 23 by deleting all the text thereon; and
on line 24, before the "***.***" by deleting all the text; and
On page 4, line 19, after "***Within***" by inserting "***twenty (20)***" and deleting "***thirty (30)***"; and
on line 21, after "***report***" by inserting "***, or the prosecuting authority,***"; and
on line 27, after "***within***" by inserting "***thirty (30)***" and deleting "***forty-five (45)***"; and

On page 5, line 3, after "***authority***" by inserting "***immediately***"; and
on line 20, after "***or***" by deleting "***otherwise***".

Orders of the Day (Continued)

HB 617 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sanders moved that **HB 617** be passed.

On the roll call the vote was: Yeas 71, Nays 20. (See March 14 , 1994 roll call on **HB 617** - Appendix)

HB 617 was passed and the title agreed to.

Representative Sanders moved that the vote by which **HB 617** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 628 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 628** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 14 , 1994 roll call on **HB 628** - Appendix)

HB 628 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 628** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 647, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 647** be returned to the Orders of the Day and retain its place in Orders of the Day. Agreed.

HB 704, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of the Committee Substitute to **HB 704**. Agreed.

Representative Mason moved that **HB 704**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 14, 1994 roll call on **HB 704** - Appendix)

HB 704, by way of Committee Substitute, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 704**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 16 to **HB 928**, by Representative Stacy:

On page 36, line 22, by deleting the new language; and by deleting lines 23, 24, 25, 26, and 27 in their entirety; and
On page 37, by deleting lines 1, 2, 3, 4, and 5 in their entirety.

Orders of the Day (Continued)

HB 629 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 629** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14 , 1994 roll call on **HB 629** - Appendix)

HB 629 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 629** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 705, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 705**. Agreed.

Representative LeMaster moved that **HB 705**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 14, 1994 roll call on **HB 705** - Appendix)

HB 705, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 705**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 733, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of Committee Amendment No. 1 to **HB 733**. Agreed.

Representative Graham moved the adoption of Floor Amendment No. 1 to **HB 733**. Agreed.

Representative Graham moved that **HB 733**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 14, 1994 roll call on **HB 733** - Appendix)

HB 733, as amended, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 733**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 739 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 739** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14 , 1994 roll call on **HB 739** - Appendix)

HB 739 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 739** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 786, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Committee Amendment No. 1 to **HB 786**. Agreed.

Representative Palumbo moved the adoption of Committee Amendment No. 2 to **HB 786**. Agreed.

Representative Palumbo moved that **HB 786**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 14, 1994 roll call on **HB 786** - Appendix)

HB 786, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 786**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 794 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 794** be passed.

On the roll call the vote was: Yeas 75, Nays 11. (See March 14 , 1994 roll call on **HB 794** - Appendix)

HB 794 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 794** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 722, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 722** be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See March 14 , 1994 roll call on **HB 722** - Appendix)

HB 722 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 722** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 797 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HB 797** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14 , 1994 roll call on **HB 797** - Appendix)

HB 797 was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 797** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 808, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Substitute to **HB 808**. Agreed.

Representative Hancock moved that **HB 808**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 37, Nays 45. (See March 14, 1994 roll call on **HB 808** - Appendix)

HB 808, by way of Committee Substitute, was defeated.

HB 814 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 814** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14 , 1994 roll call on **HB 814** - Appendix)

HB 814 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 814** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 855, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 855**. Agreed.

Representative B. Smith moved the adoption of Committee Amendment No. 2 to **HB 855**. Agreed.

Representative B. Smith moved the adoption of Committee Amendment No. 3 to **HB 855**. Agreed.

Representative B. Smith moved that **HB 855**, as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 6. (See March 14, 1994 roll call on **HB 855** - Appendix)

HB 855, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 855**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 862 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 862** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14 , 1994 roll call on **HB 862** - Appendix)

HB 862 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 862** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 931, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 931**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to **HB 931**. Agreed.

Representative Burch moved that **HB 931**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14, 1994 roll call on **HB 931** - Appendix)

HB 931, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 931**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HCR 11** be adopted.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14 , 1994 roll call on **HCR 11** - Appendix)

HCR 11 was adopted.

Representative Donnermeyer moved that the vote by which **HCR 11** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HJR 82** be adopted.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14, 1994 roll call on **HJR 82** - Appendix)

HJR 82 was adopted.

Representative Callahan moved that the vote by which **HJR 82** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 108, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute to **HB 108**. Agreed.

Representative Bowling moved that **HB 108**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 14, 1994 roll call on **HB 108** - Appendix)

HB 108, by way of Committee Substitute, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 108**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 472, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Substitute to **HB 472**. Agreed.

Representative Scorsone moved that **HB 472**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 82, Nays 3. (See March 14, 1994 roll call on **HB 472** - Appendix)

HB 472, by way of Committee Substitute, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 472**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 308 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 308** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 14 , 1994 roll call on **HB 308** - Appendix)

HB 308 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 308** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 499, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HB 499**. Agreed.

Representative R. Smith moved that **HB 499**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14, 1994 roll call on **HB 499** - Appendix)

HB 499, by way of Committee Substitute, was passed.

Representative R. Smith moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 499**. Agreed; and the title was agreed to.

Representative Stumbo moved that the vote by which **HB 499**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 501, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HB 501**. Agreed.

Representative R. Smith moved that **HB 501**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14, 1994 roll call on **HB 501** - Appendix)

HB 501, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 501**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 590, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of the Committee Substitute to **HB 590**. Agreed.

Representative Mason moved that **HB 590**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14, 1994 roll call on **HB 590** - Appendix)

HB 590, by way of Committee Substitute, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 590**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 618, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved the adoption of the Committee Substitute to **HB 618**. Agreed.

Representative Nelson moved that **HB 618**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 14, 1994 roll call on **HB 618** - Appendix)

HB 618, by way of Committee Substitute, was passed.

Representative Nelson moved the adoption of the Committee Title Amendment to the Committee Substitute to **HB 618**. Agreed; and the title was agreed to.

Representative Nelson moved that the vote by which **HB 618**, by way of Committee Substitutes amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 625 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 625** be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 14 , 1994 roll call on **HB 625** - Appendix)

HB 625 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 625** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 632 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 632** be passed.

On the roll call the vote was: Yeas 86, Nays 8. (See March 14 , 1994 roll call on **HB 632** - Appendix)

HB 632 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 632** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 649 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 649** be passed.

On the roll call the vote was: Yeas 59, Nays 23. (See March 14 , 1994 roll call on **HB 649** - Appendix)

HB 649 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 649** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 656, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to **HB 656**. Agreed.

Representative Johnson moved that **HB 656**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14, 1994 roll call on **HB 656** - Appendix)

HB 656, by way of Committee Substitute, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 656**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 664, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 664**. Agreed.

Representative Brown moved that **HB 664**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14, 1994 roll call on **HB 664** - Appendix)

HB 664, by way of Committee Substitute, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 664**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 666, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 666**. Agreed.

Representative Richards moved that **HB 666**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 14, 1994 roll call on **HB 666** - Appendix)

HB 666, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 666**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 670 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 670** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14 , 1994 roll call on **HB 670** - Appendix)

HB 670 was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 670** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 671 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 671** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14 , 1994 roll call on **HB 671** - Appendix)

HB 671 was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 671** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 707 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jensen moved that **HB 707** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 14 , 1994 roll call on **HB 707** - Appendix)

HB 707 was passed and the title agreed to.

Representative Jensen moved that the vote by which **HB 707** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 313**, by Representative Riggs:

On page 1, By deleting lines 1 through 25 in their entirety and inserting in lieu thereof the following new section:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

In any investigation of a report of an abused child pursuant to this chapter, involving public or private school personnel, the alleged perpetrator shall be informed by the investigating party of that person's right to have his or her own representative present during any questioning of that person by the investigating party. The investigating party shall also present the alleged perpetrator with a statement of the allegations that prompted the investigation."

And on page 2, By deleting lines 1 through 24 in their entirety.

Floor Title Amendment to **HB 313**, by Representative Riggs:

On page 1, By amending the title to read as follows:

"AN ACT relating to the investigation of child abuse."

Orders of the Day (Continued)

HB 710, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of the Committee Substitute to **HB 710**. Agreed.

Representative Nesler moved that **HB 710**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14, 1994 roll call on **HB 710** - Appendix)

HB 710, by way of Committee Substitute, was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 710**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 711 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 711** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14 , 1994 roll call on **HB 711** - Appendix)

HB 711 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 711** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 712, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 712**. Rejected.

Representative Wayne moved that **HB 712** be passed.

On the roll call the vote was: Yeas 82, Nays 8. (See March 14, 1994 roll call on **HB 712** - Appendix)

HB 712 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 712** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 723 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 723** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 14 , 1994 roll call on **HB 723** - Appendix)

HB 723 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 723** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 616, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 616**. Agreed.

Representative Barrows moved that **HB 616**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 14, 1994 roll call on **HB 616** - Appendix)

HB 616, by way of Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 616**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 863 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 863** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14 , 1994 roll call on **HB 863** - Appendix)

HB 863 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 863** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 32 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HJR 32** be adopted.

On the roll call the vote was: Yeas 84, Nays 0. (See March 14 , 1994 roll call on **HJR 32** - Appendix)

HJR 32 was adopted.

Representative Scorsone moved that the vote by which **HJR 32** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 56 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HR 56** be adopted.

HR 56 was adopted by voice vote.

HR 59 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **HR 59** be adopted.

HR 59 was adopted by voice vote.

HJR 66 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **HJR 66** be adopted.

On the roll call the vote was: Yeas 56, Nays 24. (See March 14 , 1994 roll call on **HJR 66** - Appendix)

HJR 66 was adopted.

HCR 69, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HCR 69**. Agreed.

Representative Richards moved that **HCR 69**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 91, Nays 1. (See March 14, 1994 roll call on **HCR 69** - Appendix)

HCR 69, by way of Committee Substitute, was adopted.

Representative Richards moved that the vote by which **HCR 69**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 71 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HJR 71** be adopted.

On the roll call the vote was: Yeas 93, Nays 0. (See March 14 , 1994 roll call on **HJR 71** - Appendix)

HJR 71 was adopted.

Representative Adkins moved that the vote by which **HJR 71** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 72, with Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Scott moved the adoption of Committee Amendment No. 1 to **HR 72**. Agreed.

Representative Scott moved that **HR 72**, as amended, be adopted.

HR 72, as amended, was adopted by voice vote.

HCR 74 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noland moved that **HCR 74** be adopted.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14 , 1994 roll call on **HCR 74** - Appendix)

HCR 74 was adopted.

Representative Noland moved that the vote by which **HCR 74** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 81, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HJR 81**. Agreed.

Representative R. Smith moved that **HJR 81**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14, 1994 roll call on **HJR 81** - Appendix)

HJR 81, by way of Committee Substitute, was adopted.

Representative R. Smith moved the adoption of the Committee Title Amendment to **HJR 81**. Agreed; and the title was agreed to.

Representative R. Smith moved that the vote by which **HJR 81**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 83 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HCR 83** be adopted.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14 , 1994 roll call on **HCR 83** - Appendix)

HCR 83 was adopted.

Representative Damron moved that the vote by which **HCR 83** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 87 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HR 87** be adopted.

On the roll call the vote was: Yeas 91, Nays 0. (See March 14 , 1994 roll call on **HR 87** - Appendix)

HR 87 was adopted.

HCR 90 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HCR 90** be adopted.

On the roll call the vote was: Yeas 90, Nays 0. (See March 14, 1994 roll call on **HCR 90** - Appendix)

HCR 90 was adopted.

Representative Stumbo moved that the vote by which **HCR 90** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 737 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 737** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 14 , 1994 roll call on **HB 737** - Appendix)

HB 737 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 737** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HR 97, by Representative Gray: A RESOLUTION recommending the designation of communities in greater Louisville, Kentucky as a Federal Urban Empowerment Zone and Enterprise Community.

HCR 98, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Kimberly K. Greene to the State Board for Elementary and Secondary Education.

HCR 99, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Craig True to the State Board for Elementary and Secondary Education.

HCR 100, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Joseph W. Kelly to the State Board for Elementary and Secondary Education.

HCR 101, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Helen W. Mountjoy to the State Board for Elementary and Secondary Education.

HCR 102, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Margaret G. Pope to the State Board for Elementary and Secondary Education.

HCR 103, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Jane Adams Venters to the State Board for Elementary and Secondary Education.

HCR 104, by Representative Clarke: A CONCURRENT RESOLUTION confirming the appointment of Thomas Edward Gish to the State Board for Elementary and Secondary Education.

HCR 105, by Representatives Trapp, Moberly, Coleman, Stumbo, Scorsone, Rasche, Rapier and Lewis: A CONCURRENT RESOLUTION requesting that the State Auditor, in conjunction with the Office of Education Accountability, conduct a management audit of the Kentucky Department of Education.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Appropriations and Revenue: **HB 26**

Labor and Industry: **SB 267**

Natural Resources and Environment: **SB 268, HB 919**

Banking and Insurance: **SB 151, SB 164**

Elections and Constitutional Amendments: **SB 281**

Education: **HCR 54**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 760**, by Representative Moberly:

On page 31, lines 19 through 27, by deleting all the text thereon; and

On pages 32 through 34, by deleting all the text thereon.

Motions, Petitions and Communications (Continued)

Representative Lee moved that the vote by which **HB 580** was defeated be reconsidered.

On the roll call to reconsider the vote by which **HB 580** was defeated, the vote was **Yeas 45**--Arnold, Bentley, Bondurant, Bowling, Brown, Butler, Callahan, L. Clark, Clarke, Coleman, DeWeese, Donnermeyer, French, Geveden, Graham, Gray, Hancock, Hatcher, Johnson, Lee, Lewis, Long, Marzian, Mason, McElroy, Moberly, Nesler, Northup, Nunn, Palumbo, Rapier, Reinhardt, Riggs, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Turner, Wayne. **Nays 36**--Adams, Adkins, Allen, Ballard, Bruce, Bryant, Buis, Cave, Collins, Crenshaw, Cyrus, Damron, Farley, Farrow, Ford, Gedling, Gee, Hampton, Harper, Heleringer, Jensen, Keith, Kerr, LeMaster, Lindsay, Little, Morris, Mullinix, Napier, Nelson, Noland, Rasche, Richards, Todd, Trapp, Treesh.

The motion that the vote by which **HB 580** was defeated be reconsidered was adopted.

Representative Lee moved that **HB 580** be placed in the Orders of the Day for March 15, 1994. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 199, HB 517, SB 170, SB 281, SB 243** and **HCR 105**. Agreed.

Representative Kerr moved the adoption of the following **Legislative Citation No. 107**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest condolences and expressions of sympathy to The Roscoe Schell Family on the passing of Roscoe Schell. This eminent body joins Representative Tom Kerr in memory of Roscoe Schell, known to his dearest loved ones as "Dad" and "Papaw". He will long be remembered by his family and members of his community as a strong family man who stood by his principals and one with shoulders broad enough to help those who sought his wisdom. It is a grievous loss to family and friends and he leaves behind his legacy of children, grandchildren and great-grandchildren who mourn his passing.

The following members filed requests to have their names added as co-sponsors to Bills under rules previously suspended: **HB 10**, Representatives Adams, Damron, Donnermeyer, Maggard, Morris, Nelson, Nesler, Sanders, Worthington; **HB 688**, Representative Ballard; **HB 722**, Representative Lile; **HB 862**, Representatives Callahan, Donnermeyer; **HB 929**, Representative Marzian, Simpson.

Representative Gedling moved that the rules be suspended to withdraw Floor Amendment No. 3 to **SB 147**. Agreed.

Representative Brown moved that the rules be suspended to withdraw **HB 869**. Agreed.

Representative Brown moved that the rules be suspended to withdraw **HB 759**. Agreed.

Representative Bowling moved that the rules be suspended to withdraw **HB 784**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 625**. Agreed.

Representative Farley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farley moved that his vote be changed from "yea" to "nay" on **HB 491**. Agreed.

Representative Farley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farley moved that he be recorded as voting "yea" on **649**. Agreed.

Representative Shacklette moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Shacklette moved that he be recorded as voting "yea" on **HB 491**. Agreed.

Representative Shacklette moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Shacklette moved that she be recorded as voting "yea" on **HJR 32**. Agreed.

Representative Shacklette moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Shacklette moved that her vote be changed from "nay" to "yea" on **HB 722**. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that his vote be changed from "yea" to "nay" on **HB 808**. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that he be recorded as voting "yea" on **HB 509**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 712**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 794**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 808**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 670**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 555**. Agreed.

Representative Bentley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bentley moved that he be recorded as voting "yea" on **HB 190**. Agreed.

Announcements

The Clerk announced the following meetings:

Committee on Rules, upon adjournment, Speaker's Office

Judiciary, upon adjournment, March 15, 1994

Appropriations and Revenue, 10:00 a.m., March 15, 1994

Banking and Insurance, 10:00 a.m., Room 125

Agriculture and Small Business, 8:30 a.m., March 15, 1994, Room 125

Counties and Special Districts, 12 Noon, March 15, 1994

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 15, 1994.

On the roll call the vote was **Yeas 73**--Adams, Adkins, Arnold, Ballard, Bondurant, Bowling, Brown, Bruce, Bryant, Buis, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hatcher, Jensen, Johnson, Kerr, Lee, Lindsay, Little, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Palumbo, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 3**--Helernger, LeMaster, Lile

The motion to adjourn was adopted.

TUESDAY, MARCH 15, 1994

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Randy Beard, River Drive Christian Church, Irvine.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Harper and Lyne.

Senate Message

Announcing passage of **SB 289** and **SB 320**. Message received on **HB 84**: The Senate has passed **HB 84** with Senate Committee Amendment and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 14, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Lindsay moved that the rules be suspended to withdraw **HB 174**. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 100**

Business Organizations and Professions: **SB 307**

Economic Development: **HR 97, SJR 68, SCR 86**

Education: **HCR 98, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103, HCR 104, HCR 105, SB 305, SB 314, SCR 81**

Judiciary: **SB 55, SB 136**

Labor and Industry: **SB 280**

Report of Committees

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day for March 16, 1994: **HB 815**

The Committee on Rules reported that **HB 646, HB 652, HJR 75, HJR 86, HB 110, HB 311, HB 488, HB 643, HB 675, HB 738, HB 762, HB 893, HB 894, HJR 28, HCR 80, HB 591, HCR 48, HCR 70, HB 300, HB 301** and **HB 302** have been posted for passage in the Orders of the Day for March 16, 1994.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 828, HR 61, SB 33, SB 205, SB 227, SB 228, SB 237, SJR 51, HB 817**

Report of Committees (Continued)

The Committee on Agriculture and Small Business reported **HB 886** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 886, AN ACT relating to the marketing of eggs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.540 is amended to read as follows:

As used in KRS 260.540 to 260.650 unless the context otherwise requires:

(1) "Board" means the Egg Marketing Board;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Department" means the Department of Agriculture;

(4) "Dealer" means a person, organization, or cooperative engaged in the business of buying eggs from producers, either on his own account or as an agent, and selling or transferring eggs by the case to a wholesaler, processor, retailer or other person;

(5) ***"Eggs" means (whether shell, processed, or liquid) the eggs of the domesticated chicken, turkey, duck, goose, and guinea;***

(6) "Handler" means a dealer, processor, wholesaler or retailer;

(7)[~~(6)~~] "Person" means any individual, firm, partnership, corporation, company, or association, and shall include any trustee, receiver or similar representative;

(8) "Producer" means the person who exercises control over the production of the eggs delivered to a dealer and who receives payment for this product;

(9)[~~(7)~~] "Processor" means ***any person who operates a plant for the purpose of breaking eggs for freezing, drying, liquid products, or other value-added processing*** [~~a person who operates a plant for the purpose of breaking eggs for freezing or drying~~];

(10)[~~(8)~~] "Retailer" means any person selling or offering for sale eggs to consumers in this state;

(11)[~~(9)~~] "Wholesaler" means a person who assembles eggs in case lots and disposes of them in quantities to retailers, or through other distribution channels;

(12)[~~(10)~~] "Candled and Graded" means candled and graded under state and federal standards and regulations;

(13)[~~(11)~~] "Ungraded and Candled" means the general run of edible eggs as they come from the producer, not sized or graded, but candled.

Section 2. KRS 260.550 is amended to read as follows:

No person shall buy, sell, trade, traffic, or process eggs in Kentucky without a license issued pursuant to the egg marketing law, with the following exceptions:

(1) [~~Those who sell only eggs produced by their own flocks;~~

~~(2)~~] Hatcheries purchasing eggs to be used exclusively for hatching purposes;

(2)[~~(3)~~] Hotels, restaurants, and other eating places where all eggs purchased are served in the establishment;

(3)[~~(4)~~] Bakeries, confectioneries, and ice cream manufacturers who use eggs in a manufactured product; and

(4)[~~(5)~~] Consumers buying eggs for their own consumption.

Section 3. KRS 260.600 is amended to read as follows:

(1) A license is required of each handler of eggs located in the Commonwealth subject to the exceptions specified in KRS 260.550. The annual license fees are as follows, varying for dealers, wholesalers and processors, according to the average weekly volume of the month in which the licensee handled the most eggs during the preceding year:

(a)	Retailers	$*12.00*[~~5.00~~]
(b)	Dealers*,* [~~and~~] wholesalers*, and producers*	
	1-25 cases	$*12.00*[~~5.00~~]
	26-50 cases	$*20.00*[~~10.00~~]
	51-100 cases	$*30.00*[~~15.00~~]
	More than 100 cases	$*40.00*[~~20.00~~]
(c)	Processors	
	Less than 250 cases	$*40.00*[~~20.00~~]
	250-500 cases	$*60.00*[~~30.00~~]

501-1000 cases	$***80.00***[~~40.00~~]
More than 1000 cases	$***100.00***[~~50.00~~]

(2) Any egg handler engaged in more than one (1) type of activity for which a license is provided ***shall*** [~~must~~] pay that license fee which is the highest of the licenses prescribed for each type of activity in which he is engaged.

(3) All eggs bought or sold by or to any egg handler ***shall*** [~~must~~] bear ***an eight cent ($0.08) assessment*** [~~a one cent ($0.01) inspection~~] fee for each ***thirty (30)*** [~~fifteen (15)~~] dozen lot or ***equivalent*** [~~portion~~] thereof ***(for example, forty (40) pounds of liquid eggs is the equivalent of a thirty (30) dozen lot)***, subject to the exemptions specified in KRS 260.550 [~~and 260.610~~].

(4) All licenses shall expire on ***January*** [~~April~~] 1 of each year. Handlers having more than one (1) place of business must hold a license for each place. Each application shall bear the names of the persons responsible for candling and grading eggs.

Section 4. KRS 260.610 is amended to read as follows:

(1) All eggs bought or sold by or to retailers, consumers, and institutional users by licensees shall be identified according to grade and size, using USDA standards and weight classes for consumer grades[~~, with the following exception:~~

~~Those retailers who sell not more than five (5) cases of eggs per week that are purchased directly from the Kentucky producers of such eggs, may sell them to consumers as unclassified~~].

(2) Eggs to be offered for sale for human consumption shall be handled in such manner as to maintain and preserve the quality and grade in which they are to be offered for sale.

(3) No person shall sell, offer or expose for sale, or have in his possession for sale, for human consumption, eggs that are inedible, including eggs that are unfit for human food in whole or in part, addled or moldy, containing black rot, white rot, or blood ring, adherent yolks, or bloody whites, incubated beyond the blood ring stage, or consisting to any extent of filthy decomposed substance.

Section 5. KRS 260.630 is amended to read as follows:

(1) All wholesale egg packs consisting of cases or portions of cases must bear a label designating contents, quality, date of packing, candler's name or number, dealer's name and address, size and grade of eggs.

(2) Graded eggs offered for sale in cartons or other packs [~~containing one dozen or less~~] shall be plainly marked as to grade, quality, and size with letters not less than one-fourth (1/4) inch in height.

Section 6. KRS 247.858 is amended to read as follows:

With respect to any referendum conducted under the provisions of KRS 247.850 to 247.865, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by the handlers, and the general purposes to which the amount so collected shall be applied. No assessment levied under the provisions of any referendum shall exceed ***four cents ($0.04) for each thirty (30)*** [~~one cent ($0.01) for each fifteen (15)~~] dozen lot of eggs or portion thereof bought or sold by a handler.

Section 7. KRS 247.859 is amended to read as follows:

The hours, voting places, rules and regulations, and the area within which the referendum will be conducted shall be established and determined by the Commissioner of Agriculture. The said referendum date, area, hours, voting places, and rules and regulations with respect to the holding of the referendum shall be published by the Commissioner through the medium of the public press in the state at least thirty (30) days before holding the referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by the referendum. Such notice shall likewise contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed ***four cents ($0.04) for each thirty (30)*** [~~one cent ($0.01) for each fifteen (15)~~] dozen lot of eggs or portion thereof bought or sold by a handler, and shall likewise state the method by which such assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the same shall be applied, which purposes shall be in keeping with the provisions of KRS 247.850 to 247.865.

Section 8. The following KRS section is repealed:

247.863 Refund of assessment collected.

The Committee on Agriculture and Small Business reported **HR 92,** with Committee Amendment attached thereto, **SB 154** and **SB 241** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HR 92, A RESOLUTION recommending increased funding for the University of Kentucky Cooperative Extension Service and Agricultural Experiment Station.

WHEREAS, the total Kentucky agricultural industry has united and set a goal of moving from a $3 billion to a $5 billion farm gate receipt agriculture industry by the year 2000; and

WHEREAS, a second goal has been set to significantly increase the value added to Kentucky-produced agriculture products by expanding secondary processing plants in Kentucky; and

WHEREAS, a comprehensive master plan, Agriculture Project 2000, has been developed by a broad spectrum of grassroots organizations for the purpose of achieving these goals; and

WHEREAS, the educational and research roles of the Kentucky Cooperative Extension Service and Agricultural Experiment Station are very critical to the success of this major statewide agricultural economic development effort; and

WHEREAS, the College of Agriculture has lost over 100 positions and 12.8 percent of its state supported operating cost due to state budget reductions; and

WHEREAS, the Cooperative Extension Service and the Agricultural Experiment Station are invaluable to Kentucky's agricultural future; and

WHEREAS, these two agencies provide the major source and delivery of technology to Kentucky's farmers; and

WHEREAS, the continued vitality of the Cooperative Extension Service and Agricultural Experiment Station is required to help Kentucky farmers and agribusinesses take advantage of the positive momentum currently being generated by Agriculture Project 2000; and

WHEREAS, the 1990 Kentucky General Assembly appropriated funds to purchase a farm in Woodford County (former Pin Oak #1) for use as an Animal Science Research Center; and

WHEREAS, no appropriations have been made to start development of this Animal Science Research Center;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the annual budget for the Cooperative Extension Service and the Agricultural Experiment Station in the College of Agriculture, University of Kentucky, be increased from the state's general fund by $3.5 million in FY 94-95 and up to $5.5 million in FY 95-96 for the purpose of implementing a comprehensive agricultural economic development initiative for Kentucky to support Agriculture Project 2000. This initiative would include creation of high-impact, rapid-adjustment management teams to concentrate on rapid expansion in the areas where Kentucky agriculture has the greatest potential for growth; and filling the 50 county extension agent positions now vacant in Kentucky.

Section 2. That in FY 94-95 a $12.48 million bond issue be approved for the first phase development of the Animal Science Research Center located at the former Pin Oak #1 farm in Woodford County. The first phase would include beef research facilities, swine basic research facilities, sheep research facilities, and part of the center complex facilities for general use by all animal science sectors.

The Committee Amendment No. 1 to **HR 92** is as follows:

On page 2, add the following section after line 14:

"Section 3. That $1.0 million in FY 94-95 be appropriated from the state's general fund equally among Western Kentucky University, Eastern Kentucky University, Murray State University, and Morehead State University for plant and animal science research projects."

SB 154, AN ACT relating to the Kentucky Agriculture Resources Development Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Agriculture Resources Development Authority (KARDA) is created. KARDA shall serve to unify the efforts of agricultural groups working on behalf of farmers and agribusiness and shall be attached to the Office of the Governor for administrative purposes.

(2) The functions of KARDA shall be to:

(a) Advise the Governor and other state officials on economic development initiatives to improve the farm economy;

(b) Conduct long-range planning and provide continuity for agriculture and agribusiness;

(c) Work with the Executive Branch and the Legislative Branch on legislation, policies, and programs with specific emphasis on increasing farm income and strengthening rural communities;

(d) Develop market potentials and encourage the "value-added" concept to the full extent of its potential;

(e) Fully develop existing enterprises and identify, explore, and evaluate new enterprise opportunities; and

(f) Improve the flow of information from the federal and state governments and the university system to

agricultural commodity organizations, their members, and the farm community in general.

(3) The membership of KARDA shall consist of twenty-seven (27) members as follows:

(a) The Governor or his designee;

(b) Dean, College of Agriculture, University of Kentucky;

(c) Commissioner of Agriculture;

(d) Chair, Senate Agriculture and Natural Resources Committee;

(e) Chair, House Agriculture and Small Business Committee;

(f) President, Kentucky Farm Bureau or his designee;

(g) President, Kentucky National Farmers Organization or his designee;

(h) President, Kentucky Bankers Association or his designee;

(i) Seven (7) members appointed by the Governor as follows: one (1) each from the seven (7) agriculture commodity organizations with the greatest cash receipts from farm marketings as reported by the Kentucky Agricultural Statistics Service. The commodity organizations' representatives shall be elected at the organizations' annual meeting of membership. The election shall be conducted at the annual meeting of membership immediately prior to the expiration of the term of that organization's representative;

(j) Four (4) appointees by the Governor from the following organizations, each of whom shall submit one (1) name for consideration: Kentucky Agriculture Communicators, Kentucky Aquaculture Association, Kentucky Association of Conservation Districts, Kentucky Beekeepers Association, Kentucky Farm and Power Equipment Dealers Association, Kentucky Feed and Grain Dealers Association, Kentucky Fertilizer and Agriculture Chemical Association, Kentucky Forage and Grassland Council, Kentucky Forest Industry Association, Kentucky Ginseng Association, Kentucky Milk Goat Association, Kentucky Poultry Federation, Kentucky Seed Improvement Association, Kentucky Sheep and Wool Producers Association, Kentucky State Horticultural Society, Kentucky Sweet Sorghum Producers and Processors Association, Kentucky Vegetable Growers Association, Kentucky Vineyard Society, and Kentucky Young Farmers Association; and

(k) Eight (8) members at large selected and appointed by the Governor;

(l) Initial terms of members, other than those serving ex officio, shall be staggered to provide continuity. Thereafter, terms shall be for four (4) years.

(4) The Governor shall designate one (1) of the members as chair whose term shall be concurrent with that of the Governor. KARDA may elect by majority vote a vice chair and other officers as may be deemed necessary.

(5) No member of KARDA shall receive a salary, fee, or other remuneration for services as a member of KARDA, but each member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to implementation of the provisions of this section.

(6) KARDA shall meet at the call of the Governor or the chair, but not less often than four (4) times during each calendar year. A majority of the members appointed to KARDA shall constitute a quorum.

(7) KARDA shall use, so far as practical, and subject to the approval of the Governor, secretarial and clerical staff of the Governor's Office to carry out the provisions of this section.

SB 241, AN ACT relating to agriculture water quality.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SUBCHAPTER 71 OF KRS CHAPTER 224 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act unless the context requires otherwise:

(1) "Agriculture operation" means any farm operation on a tract of land, including all income-producing improvements and farm dwellings, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land used for the production of livestock, livestock products, poultry, poultry products, milk, milk products, or silviculture products, or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, small grains, fruit and vegetables; or devoted to and meeting the requirements and qualifications for payments to agriculture programs under an agreement with the state or federal government;

(2) "Bad actor" means any person engaged in agriculture operations, who receives written notification of documented water pollution and of the agriculture water quality plan needed to prevent water pollution, and is provided technical assistance, and financial assistance when possible, to implement the agriculture water quality plan, but still refuses or fails to comply with the requirements of the agriculture water quality plan;

(3) "Best management practices" means, for agriculture operations, the most effective, practical, and economical means of reducing and preventing water pollution provided by the United States Department of Agriculture Soil Conservation Service and the Soil and Water Conservation Commission. Best management practices shall establish a minimum level of acceptable quality for planning, siting, designing, installing, operating, and maintaining these practices;

(4) "Conservation plan" means a plan, provided by the United States Department of Agriculture Soil Conservation Service and the Soil and Water Conservation Commission, describing best land management practices, including an installation schedule and maintenance program, which when completely implemented, will improve and maintain soil, water, and related plant and animal resources of the land;

(5) "Compliance plan" means a conservation plan containing best management practices developed for persons engaged in agriculture operations by the United States Department of Agriculture Soil Conservation Services, in conjunction with local conservation districts as required for eligibility under the Federal Food Security Act;

(6) "Forest stewardship management plan" means a plan developed by the cabinet's Division of Forestry, the cabinet's Division of Conservation, the Department of Fish and Wildlife Resources, and the United States Department of Agriculture Soil Conservation Service which establishes practices for a person engaged in agriculture operations to manage forest lands in accordance with sound silvicultural principles;

(7) "Conservation district" means a subdivision of state government organized pursuant to KRS Chapter 262 for the specific purpose of assisting persons engaged in agriculture operations and land users in solving soil and water resources problems, setting priorities for conservation work to be accomplished, and coordinating the federal, state, and local resources to carry out these programs;

(8) "Groundwater" means subsurface water occurring in the zone of saturation beneath the water table and any perched water zones below the B soil horizon;

(9) "Water priority protection region" means an area specifically delineated where water pollution from agriculture operations has been scientifically documented;

(10) "Agriculture water quality plan" means a document incorporating the conservation plan, compliance plan, or forest stewardship management plan as necessary to prevent groundwater and surface water pollution from an agriculture operation;

(11) "Surface water" means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters, marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Effluent ditches and lagoons used for waste treatment which are situated on property owned, leased, or under valid easement by a permitted discharger shall not be considered to be surface waters of the Commonwealth; and

(12) "Soil and water conservation commission" means the commission created in KRS 146.090 for the purpose of administering the organization of conservation districts.

SECTION 2. A NEW SECTION OF SUBCHAPTER 71 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Agriculture Water Quality Authority is hereby created and administratively attached to the cabinet. The authority shall be a multi-discipline peer group that shall evaluate, develop, and improve best management practices in conservation plans, compliance plans, and forest stewardship management plans; establish state-wide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect waters of the Commonwealth from the adverse impacts of agriculture operations within the Commonwealth. The cabinet shall provide staff to the authority.

(2) Within six (6) months of the effective date of this Act, the Soil and Water Conservation Commission shall submit to the Governor for appointment to the Agriculture Water Quality Authority a list of three (3) persons recommended by each of the following state agencies and organizations:

(a) Kentucky Association of Conservation Districts;

(b) Kentucky Department of Agriculture;

(c) University of Kentucky College of Agriculture Cooperative Extension Service;

(d) Kentucky Farm Bureau Federation, Inc.;

(e) Division of Conservation, Natural Resources and Environmental Protection Cabinet;

(f) Division of Forestry, Natural Resources and Environmental Protection Cabinet;

(g) Kentucky Geological Survey; and

(h) Environmental organizations.

The membership of the Agriculture Water Quality Authority appointed by the Governor shall consist of one (1) representative from each of the groups identified in paragraphs (a) to (h) of this subsection and three (3) members-

at-large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members-at-large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the United States Soil Conservation Service and a representative from the United States Agriculture Stabilization and Conservation Service may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Natural Resources and Environmental Protection Cabinet and the Division of Environmental Health and Community Safety, Cabinet for Human Resources shall serve as ex-officio members.

(3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:

(a) Livestock, including but not limited to, beef, swine, dairy, poultry, and equine;

(b) Crops, including but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;

(c) Pesticides, fertilizers, and other agricultural chemicals; and

(d) Farmstead issues.

(4) The Agriculture Water Quality Authority shall have the following responsibilities:

(a) Review water quality data as available;

(b) Review university research on water quality and alternative best management practices research;

(c) Evaluate the adoption and effectiveness of best management practices, and modify best management practice design standards to improve water quality protection practices;

(d) Develop by July 1, 1996, state-wide agriculture water quality plans to address identifiable water pollution problems from agriculture operations, and continue to evaluate and modify the agriculture water quality plans, as necessary to prevent water pollution from agriculture operations;

(e) Assist with the review of state-funded and other water quality monitoring data and with the establishment of agriculture water priority protection regions;

(f) Provide technical assistance to persons engaged in agriculture operations and to the Soil and Water Conservation Commission in its efforts to coordinate water quality protection as related to agriculture operations;

(g) Work with the United States Soil Conservation Service, United States Agriculture Stabilization and Conservation Service, and conservation districts to disseminate to agriculture operations the best management practices, conservation plans, compliance plans, forest stewardship management plans, and agriculture water quality plans which address the protection of groundwater and surface water;

(h) Provide the Governor and the Legislative Research Commission with biennial reports of the progress of the Agriculture Water Quality Authority program; and

(i) Establish procedures for modifications to be incorporated into state-wide or regional agriculture water quality plans.

(5) The cabinet's Division of Water shall approve or disapprove any state-wide and regional water quality plan within thirty (30) days of receiving the plan from the Agriculture Water Quality Authority. All provisions of a state-wide or regional water quality plan not found deficient shall be approved. If the Division of Water finds any provision of the state-wide or regional agriculture water quality plan deficient, the Division of Water shall give written notice to the authority of those provisions found to be deficient. Within the thirty (30) days following the notice of deficiency, the authority shall deliver to the Division of Water a written response setting forth proposed solutions to the deficiencies. Any deficiencies which remain unresolved shall be resolved in a manner agreed to jointly by the Division of Water and the authority within sixty (60) days unless the Division of Water and authority jointly agree to an extension or alternate dispute resolution. The Division of Water shall approve or disapprove all modifications to the state-wide and regional plans as set forth at Section 3(8) of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 71 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Each agriculture operation shall establish an agriculture water quality plan as follows:

(1) In the case of an agriculture operation which already has in place a conservation plan, compliance plan, or forest stewardship management plan, the agriculture water quality plan for that agriculture operation shall be the conservation plan, compliance plan, or forest stewardship management plan until the time the state-wide agriculture water quality plan for agriculture is developed, approved, and incorporated into the existing plan.

(2) All persons engaged in agriculture operations are encouraged to follow the best management practices provided by

the Soil and Water Conservation Commission in the "Agriculture Best Management Practices Manual" until the state-wide agriculture water quality plan is developed and approved.

(3) The approved state-wide agriculture water quality plan shall establish the applicable requirements to be used by the technical agencies in assisting persons engaged in agriculture operations in the revision and modification of their conservation plans, compliance plans, or forest stewardship management plans. Within five (5) years of the approval of the state-wide agriculture water quality plan, persons engaged in agriculture operations across the state shall implement the applicable requirements of the state-wide plan. A person engaging in agriculture operations where water pollution has been documented by the cabinet shall be presumed to be in compliance with Sections 1 to 5 of this Act if that person has timely and properly implemented the applicable requirements of the state-wide agriculture water quality plan. If it is determined that the plan does not prevent the documented water pollution, it shall be the responsibility of the Agriculture Water Quality Authority, not the agriculture operations, to identify the necessary modifications to the plan to prevent the documented pollution. The Commonwealth of Kentucky, through the conservation districts, shall assure that technical assistance is made available to assist persons engaged in agriculture operations with the implementation of the state-wide plan requirements. The Commonwealth of Kentucky recognizes the public benefit of providing the financial resources necessary to protect groundwater and surface water and may make available cost share dollars to assist persons engaged in agriculture operations with the implementation of their plans as resources become available. The time for compliance with an agriculture water quality plan may be extended based on the availability of technical and financial assistance.

(4) To ensure the success of agriculture's plan to protect groundwater and surface water, available state-wide monitoring data shall be used to identify trends in water quality across the state and to complement the groundwater assessment program of KRS 247.088. This data shall help identify water protection priority regions, develop a scientific water quality data base, and develop sensitivity map information. As priority areas are identified on a regional or local basis, efforts shall be made to conduct an intensive monitoring program by the Division of Water, in cooperation with Kentucky Geological Survey, and the Agriculture Water Quality Authority, to investigate known or suspected instances of groundwater pollution.

(5) The cabinet's Division of Water shall notify in writing the local conservation districts, the Soil and Water Conservation Commission, and the Agriculture Water Quality Authority that water pollution from agriculture operations within a region has been documented through data collected from monitoring efforts. The Division of Water, working with the Agriculture Water Quality Authority, shall designate water priority protection regions where it is documented that agriculture is contributing to water quality pollution problems. If the cabinet's Division of Water identifies water pollution in a region, the authority shall reevaluate the effectiveness of the best management practices, and the applicable provisions of the state-wide agriculture water quality plan in effect for agriculture operations in that region. Working with the Soil and Water Conservation Commission and the conservation district, the Agriculture Water Quality Authority shall develop a regional agriculture water quality plan and assist persons engaged in agriculture operations in the identified region in taking the appropriate steps to modify their agriculture water quality plan.

(6) Upon notice from the cabinet's Division of Water that water pollution from agriculture operations has been documented in a water priority protection region of the state, the Soil and Water Conservation Commission and local conservation districts shall provide notice to persons engaging in agriculture operations within the region of the availability of any technical and financial assistance. The notice shall also state that, in order to qualify for any available assistance, the person engaging in agriculture operations shall comply with the regional water quality plan. The notice shall be in a form which shall not limit the ability of a person engaged in agriculture operations to participate in state and federal assistance programs. The Division of Water and the conservation districts, in consultation with the Agriculture Water Quality Authority, shall set the time for implementation of the regional water quality plan.

(7) A person engaging in agriculture operations in an agriculture water priority protection region shall implement the regional plan with assistance from the commission, the conservation districts, and the Division of Water.

(8) Persons engaged in agriculture operations may obtain modifications of any state-wide or regional agriculture water quality plan by submitting the proposed modification for review to the appropriate conservation district in accordance with the procedure established in the state-wide agriculture water quality plan. The conservation district shall review proposed modifications and make a recommendation to the Agriculture Water Quality Authority for consideration. If the authority recommends approval of the modification, the cabinet's Division of Water shall approve or disapprove the modification on at least a quarterly basis, unless otherwise provided in the state-wide agriculture water quality plan.

(9) A person engaging in agriculture operations who is in a water priority protection region where water pollution has been documented by the cabinet shall be presumed to be in compliance with Sections 1 to 5 of this Act if that person has timely and properly implemented the practices required by the portions of the regional agriculture water quality plan which apply to that person's activities.

(10) Where there is documented evidence of a violation of water pollution laws or administrative regulations traceable to a specific agriculture operation, the provisions of Section 4 of this Act shall govern the resolution of the violation.

SECTION 4. A NEW SECTION OF SUBCHAPTER 71 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of Sections 1 to 5 of this Act, if the cabinet's Division of Water documents that a person engaged in agriculture operations is conducting or allowing the conduct of any agriculture operation in a manner which results in water pollution or if the person fails to implement the provisions of the applicable agriculture water quality plan, the Division of Water shall notify the person in writing, with a copy of the notice to the appropriate conservation district, of the following:

(a) The facts alleged to constitute the water pollution or failure to comply with applicable laws or requirements of the agriculture water quality plan alleged to constitute the noncompliance;

(b) Availability of any technical and financial assistance from state or federal sources through the conservation districts; and

(c) Set forth a reasonable period for compliance or, the person engaged in agriculture operations may submit a compliance plan which may include a compliance schedule with corrective measures designed to correct the failure to conform with the applicable provisions of the agriculture water quality plan subject to approval by the Division of Water. A compliance schedule may incorporate corrective measures and time schedules recommended by the appropriate conservation district, if requested by persons engaged in agriculture operations.

(2) If any person engaged in agriculture operations fails or refuses to comply or respond to the written notice, unless excused or extended by the Division of Water, the person shall be deemed a "bad actor" and shall be subject to enforcement action for violations of Sections 1 to 5 of this Act as well as loss of eligibility for further financial assistance.

(3) In any violation issued under this section, the cabinet shall consider the compliance of a person with the state and any regional agriculture water quality plan as a mitigating factor in determining whether to impose civil penalties.

SECTION 5. A NEW SECTION OF SUBCHAPTER 71 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 5 of this Act shall be construed as affecting the obligation of any person concerning any permit, certification, or authorization required under state or federal law. Nothing in Sections 1 to 5 of this Act shall be construed to require the cabinet to give prior written notice in the case of any violation of a permit, certification, or authorization required under state or federal law or in the case of any violation requiring emergency action for violations of KRS 224.10-410, 224.01-400, and 151.297 or enforcement of any administrative or judicial order to protect human health or the environment.

The Committee on Banking and Insurance reported **HB 599**, with Committee Amendment attached thereto, **HB 853**, **HB 854** and **HB 865** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 599, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of evidence satisfactory to the commissioner that any person is violating or about to violate any provision of this subtitle, and that the failure to take immediate action will adversely affect the interests of the citizens of the Commonwealth, the commissioner may order the person to immediately cease and desist from the prohibited activities.

(2) The order shall state the basis for its issuance, that the person has a right to a hearing, and that a request for a hearing must be made within twenty (20) days of the date the order is mailed or delivered to that person. The hearing shall be held within ten (10) days of the request, unless otherwise agreed by the requesting person. Failure to make the request shall constitute a waiver of any provision of law for the hearing. The order shall be served in person by the commissioner or his agent or by certified or registered mail, return receipt requested, or by any other means which reasonably gives notice.

The Committee Amendment No. 1 to **HB 599** is as follows:

On page 1, line 8, after the number "*(2)*", by inserting the following: "*Notwithstanding any other provisions of this section, a cease and desist order under this section shall not be issued in connection with the activities of a federally-insured*

depository.

(3)".

HB 853, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not place surplus lines insurance with an insurer that he knows, or in the exercise of reasonable diligence could know has a surplus in regard to policyholder of less than ***six*** [~~three~~] million dollars ***($6,000,000)***[~~($3,000,000)~~], is unsound financially, or that is ineligible under the Kentucky insurance code.

(2) A broker may[~~:~~

~~(a) Place insurance covering certificates of investment with an insurance company or guarantee fund which is financially sound and has capital funds and reserves in excess of fifteen million dollars ($15,000,000); and~~

~~(b)~~] place insurance with a United States insurance exchange which the commissioner, in his discretion, may designate for use by surplus lines brokers licensed by the Commonwealth of Kentucky.

(3) A broker shall not place insurance with an alien insurer that is not recognized by the National Association of Insurance Commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least ***three*** [~~one~~] million [~~five hundred thousand~~] dollars ***($3,000,000)***[~~($1,500,000)~~].

(4) A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless ***the*** [~~such~~] insurer has deposited with the custodian of insurance securities publicly-traded securities with a market value of at least ***six*** [~~three~~] hundred thousand dollars ***($600,000)***[~~($300,000)~~].

(5) ***A broker shall not place insurance with an insurer that is ultimately owned by a foreign nation or that is controlled by a foreign nation*** [~~This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of July 15, 1982, except that the commissioner may revoke such eligibility, or may order such insurer to comply with this section or may suspend the operation of the insurer in Kentucky~~].

Section 2. KRS 304.10-120 is amended to read as follows:

(1) Any person while licensed in this state as a resident general lines agent who:

(a) Has been continuously licensed for at least three (3) years;

(b) Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines;

(c) Represents at least three (3) insurers admitted to transact property or casualty insurance in Kentucky; and

(d) Maintains an office at a designated location in this state;

may be licensed as a surplus lines broker.

(2) Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.

(3) The license fee shall be as specified in KRS 304.4-010.

(4) The license and licensee shall be subject to the applicable provisions of Subtitle 9.

(5) In order for a surplus lines broker's license to be renewed, the licensee ***shall*** [~~must~~] have at least ***three (3)*** [~~five (5)~~] current appointments with property or casualty insurers admitted to do business in Kentucky.

Section 3. KRS 304.10-180 is amended to read as follows:

(1) On or before the first day of April of each year each broker shall remit to the State Treasurer through the commissioner a tax at the rate of three percent (3%) on the premiums, exclusive of sums collected to cover federal***,*** [~~and~~] state***, and local government*** taxes and examination fees, on surplus lines insurance subject to tax transacted by him with unauthorized insurers during the preceding calendar year as shown by his annual statement filed with the commissioner. When collected***,*** the tax shall be credited to the general fund.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

HB 854, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.36-030 is amended to read as follows:

(1) This subtitle shall apply to all kinds of direct insurance, except***:***

(a) Life or health insurance, or annuities;

(b) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;

(c) Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;

(d) Title insurance;

(e) Ocean marine insurance;

(f) Any transaction or combination of transactions between a person and the affiliates of the person and an insurer, including the affiliates of the insurer, which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk; or

(g) Any insurance provided, written, reinsured, or guaranteed by government [~~life, health, title, credit, mortgage guaranty, and ocean marine insurance~~].

(2) Notwithstanding subsection (1) of this section, this subtitle shall apply to health insurance where *the* [~~such~~] insurance is written by a member of the Kentucky Insurance Guaranty Association.

Section 2. KRS 304.36-050 is amended to read as follows:

As used in this subtitle, unless the context otherwise requires:

(1) *"Affiliate" means a person who directly, or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer* [~~"Association" means the Kentucky Insurance Guaranty Association created under KRS 304.36-060~~].

(2) *"Association" means the Kentucky Insurance Guaranty Association created under KRS 304.36-060* [~~"Commissioner" means the commissioner of insurance of Kentucky~~].

(3) *"Claimant" means any insured making a first party claim or any person instituting a liability claim, if a person who is an affiliate of the insolvent insurer may be a claimant* [~~"Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this subtitle applies issued by an insurer, if such insurer becomes an insolvent insurer after June 16, 1972, and (a) the claimant or insured is a resident of this state at the time of the insured event; or (b) the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise~~].

(4) *"Commissioner" means the commissioner of the Department of Insurance of Kentucky* [~~"Insolvent insurer" means (a) an insurer licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred, and (b) against whom a final order of liquidation, with a finding of insolvency, has been entered by a court of competent jurisdiction in the company's state of domicile after June 16, 1972, and, (c) with respect to which no order, decree, or finding relating to the solvency of the insurer, whether preliminary or temporary in nature or otherwise has been issued by a court of competent jurisdiction or by any insurance commissioner, insurance department or similar official or body before June 16, 1972, or which was in fact insolvent before June 16, 1972, and such de facto insolvency was known by the chief insurance regulatory official of the state of its domicile~~].

(5) *"Control" means the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact* [~~"Member insurer" means any person who (a) writes any kind of insurance to which this subtitle applies under KRS 304.36-030, including the exchange of reciprocal or inter-insurance contracts, and (b) is licensed to transact insurance in this state~~].

(6) *"Covered claim" means an unpaid claim, including one (1) for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this subtitle applies issued by an insurer, if the insurer becomes an insolvent insurer after June 16, 1972; and*

(a) The claimant or insured is a resident of this state at the time of the insured event, if for entities other than an individual, the residence of a claimant or insured is the state in which its principal place of business is located at the time of the insured event; or

(b) The property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount sought as a return of premium under any retrospective rating plan, legal expenses for policyholders who are not Kentucky residents, legal expenses for resident Kentucky policyholders in excess of the association's statutory cap, or amounts due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise [~~"Net direct written premiums" means direct gross premiums written, or in the case of an insurer organized under KRS Chapter 299, assessments, membership fees~~

~~and policy fees levied and collected in this state, less returns thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers~~].

(7) ***"Insolvent insurer" means:***

(a) An insurer licensed to transact insurance in this state either at the time the policy was issued or when the insured event occurred;

(b) Against whom a final order of liquidation, with a finding of insolvency, has been entered by a court of competent jurisdiction in the company's state of domicile after June 16, 1972; and

(c) With respect to which no order, decree, or finding relating to the solvency of the insurer, whether preliminary or temporary in nature or otherwise has been issued by a court of competent jurisdiction or by any insurance commissioner, insurance department, or similar official or body before June 16, 1972, or which was in fact insolvent before June 16, 1972, and the de facto insolvency was known by the chief insurance regulatory official of the state of its domicile [~~"Person" means any individual, corporation, partnership, association or voluntary organization~~].

(8) "Member insurer" means any person who:

(a) Writes any kind of insurance to which this subtitle applies under KRS 304.36-030, including the exchange of reciprocal or inter-insurance contracts; and

(b) Is licensed to transact insurance in this state.

(9) "Net direct written premiums" means direct gross premiums written, or in the case of an insurer organized under KRS Chapter 299, assessments, membership fees, and policy fees levied and collected in this state less returns thereon and dividends paid or credited to policyholders on the direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(10) "Person" means any individual, corporation, partnership, association, or voluntary organization.

Section 3. KRS 304.36-080 is amended to read as follows:

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty (30) days after the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or on request effects cancellation, if he does so within thirty (30) days of the determination. Except in the case of a policy of workers' compensation insurance purchased to satisfy the requirements of KRS 342.340, ***the*** [~~such~~] obligation shall include only that amount of each covered claim which is less than ***three*** [~~one~~] hundred thousand dollars ***($300,000).*** [~~($100,000). In no event shall~~] The association ***shall not*** be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises;

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to ***that*** [~~such~~] extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(c) Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) of this subsection subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under KRS 304.36-130 and other expenses authorized by this subtitle. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any year an amount greater than ***two*** [~~one~~] percent ***(2%)*** [~~(1%)~~] of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association, does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it may deem reasonable including the payment of claims as ***they*** [~~such~~] are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when ***the*** [~~such~~] payment will not reduce capital and surplus below required minimums. ***The*** [~~Such~~] payments shall be refunded to those companies receiving larger assessments by virtue of ***the*** [~~such~~] deferment, or at the election of ***the*** [~~any such~~] company, credited against future assessments. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of ***the*** [~~such~~] claims by ***the*** [~~such~~] member insurer;

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims;

(e) Notify ***the*** [~~such~~] persons as the commissioner directs under KRS 304.36-100(2)(a);

(f) Handle claims through its employees or through one (1) or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but ***the*** [~~such~~] designation may be declined by a member insurer; and

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this subtitle.

(2) The association may:

(a) Appear in, defend, and appeal any action on a claim brought against the association;

(b) Employ or retain [~~such~~] persons as are necessary to handle claims and perform other duties of the association;

(c) Borrow funds necessary to effect the purposes of this subtitle in accord with the plan of operation;

(d) Sue or be sued;

(e) Negotiate and become a party to [~~such~~] contracts as are necessary to carry out the purpose of this subtitle;

(f) Perform [~~such~~] other acts as are necessary or proper to effectuate the purpose of this subtitle; and

(g) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

Section 4. KRS 304.36-110 is amended to read as follows:

(1) Any person recovering under this subtitle shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this subtitle shall cooperate with the association to the same extent as ***the*** [~~such~~] person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out***, except as follows:***[~~.~~]

(a) Any insured whose net worth on the thirty-first day of December of the year next preceding the date the insurer becomes an insolvent insurer exceeds fifty million dollars ($50,000,000) and whose liability obligations to other persons are satisfied in whole or in part by payments made under this subtitle; and

(b) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under Sections 1 to 5 of this Act.

(2) ***No limitation shall be placed on the ability of the association to recover from the principal all claim payments and expenses arising from a surety contract that is a covered claim to the association.***

(3) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant ***the*** [~~such~~] claims priority equal to that which the claimant would have been entitled in the absence of this subtitle against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(4)[~~(3)~~] The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

Section 5. KRS 304.36-120 is amended to read as follows:

(1) Any person having a claim against his insurer under any provision in his insurance policy which is also a covered claim shall be required to exhaust first his right under ***the*** [~~such~~] policy. Any amount payable on a covered claim under this subtitle shall be reduced by the amount of ***the*** [~~such~~] recovery under the claimant's insurance policy. ***Any provision in the insurance policy includes but is not limited to the following coverages: personal injury protection, uninsured motorist, underinsured motorist, workers' compensation, and health care.***

(2) Any person having a claim which may be recovered under more than one (1) insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a workers' compensation claim, from the association of the residence of the claimant. Any recovery under this subtitle shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

(3) The guaranty association shall receive the benefit of any reinsurance contract or treaties entered into by the insolvent insurer which cover any of the liabilities incurred by the insolvent insurer with respect to covered claims.

HB 865, AN ACT relating to insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.33-030 is amended to read as follows:

For the purposes of this subtitle:

(1) "Agent" means all persons who have collected or are holding premiums or other assets of the insurer, including, but not limited to, brokers, intermediaries, managing general agents, underwriting managers, and reinsurance managers, and any other persons who have entered into a fiduciary relationship with the insurer subject to delinquency proceedings, including, but not limited to, persons holding licenses under Subtitles 9, 32, 38, and 43 of KRS Chapter 304.

(2) "Commissioner" means the commissioner of insurance of this state.

(3) "Receiver" means receiver, liquidator, rehabilitator, or conservator, as the context requires.

(4) "Insurer" has the meaning defined in Subtitle 1 of this chapter. For purposes of this subtitle, all other persons included under KRS 304.33-020 shall be deemed to be insurers.

(5) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving ***an*** [~~such~~] insurer, and any summary proceeding under KRS 304.33-110 to 304.33-130, inclusive.

(6) "State" has the meaning defined in Subtitle 1 of this chapter.

(7) "Foreign country" means territory not in any state.

(8) "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an alien insurer, the state in which the insurer has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust and on deposit for the benefit of policyholders and creditors in the United States.

(9) "Ancillary state" means any state other than a domiciliary state.

(10) "Reciprocal state" means any state other than this state in which in substance and effect subsection (1) of KRS 304.33-200, subsections (1) and (3) of KRS 304.33-530, KRS 304.33-540, and KRS 304.33-560 to 304.33-590, inclusive, are in force, and in which provisions are in force requiring that the commissioner be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

(11) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or limited classes of persons, and as to specifically encumbered property the term includes all ***the*** [~~such~~] property or its proceeds in excess of the amount necessary to discharge the sums secured thereby, except as otherwise expressly provided in this subtitle. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

(12) "Reinsurance intermediary" means any person who acts as a broker in soliciting, negotiating, or procuring the making of any reinsurance contract or binder, or acts as an agent in accepting any reinsurance contract or binder on behalf of an insurer.

(13) "Court" means the Franklin Circuit Court.

(14) "Preferred claim" means any claim with respect to which the law accords priority of payment from the general assets of the insurer.

(15) "Special deposit claim" means any claim secured by a deposit made pursuant to law for the security or benefit of one (1) or more limited classes of persons, but not including any claim secured by general assets.

(16) "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claims or claims against general assets including, but not limited to, claims of setoff, counterclaim, or recoupment against obligations to pay premiums to the insurer. The term also includes claims which have become liens upon specific assets by reason of judicial process, except where they have been invalidated.

(17) "Premium" has the meaning set forth in Subtitle 14 of this chapter.

(18) "Insolvency" means that the insurer is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of:

(a) Any capital and surplus required by law to be constantly maintained, or

(b) Its authorized and issued capital stock. For purposes of this subsection, "assets" includes one-half (1/2) of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were one hundred percent (100%) collection of an assessment at the rate of ten (10) mills.

(19) "Fair consideration" is given for property or an obligation:

(a) When in exchange for such property or obligation, as a fair equivalent ***therefore*** [~~therefor~~], and in good faith, property is conveyed or services are rendered or obligation is incurred or an antecedent debt is satisfied; or

(b) When such property or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared to the value of the property or obligation obtained.

(20) "Creditor" is a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent.

(21) "Transfer" includes the sale and every other method, direct or indirect, of disposing of or of parting with property or with an interest therein or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

(22) "Doing business" has the meaning designated in Subtitle 1.

(23) "Guaranty association" means the Kentucky Insurance Guaranty Association, the Kentucky Life and Health Insurance Guaranty Association and any other similar entity now or hereafter created by the Legislature of this state for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence in, or hereafter created by the legislature of, any other state.

(24) "Allocated loss adjustment expenses" means expenses specifically identifiable to individual claim files and incurred for outside service expenses such as independent adjuster's fees, attorney's fees, appraiser's fees, court cost, expert or witness fees, or other outside service fees incurred in the handling of specific claims.

Section 2. KRS 304.33-180 is amended to read as follows:

(1) Transformation to liquidation. Whenever he believes that further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors or policyholders, or would be futile, the rehabilitator may petition the court for an order of liquidation. A petition under this subsection shall have the same effect as a petition under KRS 304.33-190. The court shall permit the directors to defend against the petition and ***may*** [~~shall~~] order payment from the estate of the insurer of ***reasonable*** [~~such~~] costs and other expenses of defense ***upon a showing that the board of directors of the insurer incurred fees and expenses based on their best knowledge, information, and belief, formed after reasonable inquiry which indicated that the opposition was in the best interests of the insurer, was well grounded in fact, and was warranted by existing law, and that the opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of liquidation*** [~~as justice requires~~].

(2) Order to return to insurer. The rehabilitator may at any time petition the court for an order terminating rehabilitation of an insurer. If the court finds that rehabilitation has been accomplished and that grounds for rehabilitation under KRS 304.33-140 no longer exists, it shall order that the insurer be restored to possession of its property and the control of its business. The court may also make that finding and issue that order at any time upon its own motion.

Section 3. KRS 304.33-380 is amended to read as follows:

(1) Claims contingent on judgments. The claim of a third party which is contingent only on his first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency.

(2) Claims under terminated policies. Any claim that would have become absolute if there had been no termination of coverage under KRS 304.33-120, and which was not covered by insurance acquired to replace the terminated coverage, shall be allowed as if the coverage had remained in effect, unless at least ten (10) days before the insured event occurred either the claimant had actual notice of the termination or notice was mailed to him as prescribed by subsection (1) of KRS 304.33-250, or subsection (1) of KRS 304.33-260. If allowed, the claim shall share in distributions under subsection ***(11)*** [~~(8)~~] of KRS 304.33-430.

(3) Other contingent claims. A claim may be allowed even if contingent, if it is filed in accordance with subsection (2) of KRS 304.33-360. It may be allowed and may participate in all dividends declared after it is filed, to the extent that it does not prejudice the orderly administration of the liquidation.

(4) Immature claims. Claims that are due except for the passage of time shall be treated as absolute claims are treated, except that where justice requires the court may order them discounted at the legal rate of interest.

Section 4. KRS 304.33-430 is amended to read as follows:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first fifty dollars ($50) of the amount allowed on each claim in the classes under subsections ***(4)*** [~~(2)~~] to ***(8)*** [~~(5),~~] inclusive, of this section, shall be deducted from the claim and included in the class under subsection ***(10)*** [~~(7)~~] of this section. Claims may not be cumulated by assignment to avoid application of the fifty dollars ($50) deductible provision. Subject to the fifty dollars ($50) deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. ***Once funds are retained by the liquidator and approved by the court, the insurer's estate shall have no further liability to members of that class except to the extent of the retained funds.*** No subclasses shall be established within any class.

(1) Administration costs. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the

rehabilitation or liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

(2) ***Guaranty association expenses. The reasonable expenses of a guaranty association in connection with the administration of a delinquency proceeding, other than allocated loss adjustment expenses, after an order of liquidation is entered or after the liquidator or rehabilitator makes written requests to the guaranty association to incur the administration expenses.***

(3) Wages.

(a) Debts due to employees for services performed, not to exceed one thousand dollars ($1,000) to each employee which have been earned within ***six (6) months*** [~~one (1) year~~] before the filing of the petition for liquidation ***or rehabilitation***. Officers shall not be entitled to the benefit of this priority.

(b) ***This*** [~~Such~~] priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(4)[~~(3)~~] Loss and unearned premium claims. Claims by policyholders, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, ***claims for unearned premiums,*** and claims of ***a*** guaranty ***association for covered obligations, including allocated loss adjustment expenses*** [~~associations or foreign guaranty associations~~].

(5)[~~(4)~~] Residual classification. All other claims including claims of the federal or any state or local government, not falling within other classes under this section. ***Claims of attorneys for fees and expenses owed them by an insurer for services rendered in opposing a formal delinquency proceeding including reasonable costs and expenses if allowed by the court as provided in KRS 304.33-180(1). In order to prove claims as provided in 304.33-180(1), the claimant must show that the board of directors of the insurer incurred the fees and expenses based on their best knowledge, information, and belief, formed after reasonable inquiry indicating the opposition was in the best interest of the insurer, was well grounded in fact and was warranted by existing law, and that the opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the litigation*** [~~Claims, including those of any governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection (7) of this section~~].

(6) Federal government. Claims of the federal government other than those claims included in subsection (4).

(7) State and local government. Claims of any state or local government for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of the claims shall be postponed to the class of claims under subsection (10) of this section.

(8)[~~(5)~~] Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment ***the*** [~~such~~] weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

(9)[~~(6)~~] Interest on claims already paid. Interest at the legal rate compounded annually on all claims in the classes under subsections (1) to ***(8)*** [~~(5)~~] of this section, inclusive, from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

(10)[~~(7)~~] Miscellaneous subordinated claims. The remaining claims or portions of claims not already paid, with interest as in subsection ***(9)*** [~~(6)~~] of this section:

(a) The first fifty dollars ($50) of each claim in the classes under subsections (2) to ***(8)*** [~~(5)~~], inclusive, of this section, subordinated under this section;

(b) Claims under subsection (2) of KRS 304.33-380;

(c) Claims subordinated by KRS 304.33-600;

(d) Claims filed late;

(e) Portions of claims subordinated under subsection ***(5)*** [~~(4)~~] of this section; and

(f) Claims or portions of claims, payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

(11)[~~(8)~~] Preferred ownership claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in subsections ***(9)*** [~~(6)~~] and ***(10)*** [~~(7)~~] of this section.

(12)[~~(9)~~] Proprietary claims. The claims of shareholders or other owners.

- ***(a) Upon the declaration of a dividend, the receiver shall apply the amount of the dividend against any indebtedness owed to the insurer by the person entitled to the dividend. There shall be no claim allowed for any deductible charged by a guaranty association or entity performing a similar function.***
- ***(b) If any claimant of this state, another state, or foreign country shall be entitled to or shall receive a dividend upon his claim out of a statutory deposit or the proceeds of any bond or other asset located in another state or foreign country, then the claimants shall not be entitled to any further dividend from the receiver until and unless all other claimants of the same class, irrespective of residence or place of the acts or contracts upon which their claims are based, shall have received an equal dividend upon their claims, and after the equalization, the claimants shall be entitled to share in the distribution of further dividends by the receiver, along with and like all other creditors of the same class, wheresoever residing.***

Section 5. KRS 304.33-440 is amended to read as follows:

(1) Immediate Access. Within one hundred twenty (120) days of a final determination of insolvency of a company by a court of competent jurisdiction of this state, the liquidator shall make application to the court for approval of a proposal to disburse assets out of ***the*** [~~such~~] company's marshalled assets, from time to time as ***the*** [~~such~~] assets become available, to guaranty associations or foreign guaranty associations having obligations because of the insolvency. ***A final determination of insolvency shall not be deemed to have occurred for purposes of this section until after an order of liquidation has been entered by the court and no further appeals may be taken from the order. The*** [~~Such~~] proposal shall at least include provision for:

- (a) Reserving amounts for the payment of the expenses of administration and claims falling within the priorities established in KRS 304.33-430(1) and ***(9)*** [~~(2)~~];
- (b) Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;
- (c) Equitable allocation of disbursements to each of the associations entitled thereto; and
- (d) The securing by the liquidator from each of the associations entitled to disbursements pursuant to paragraph (e) of an agreement to return to the liquidator ***the*** [~~such~~] assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in KRS 304.33-430(1), ***(3), (5), and (6)*** [~~(2) and (3)~~] in accordance with [~~such~~] priorities. No bond shall be required of ***the*** [~~any such~~] association.
- (e) The liquidator's proposal ***may*** [~~shall~~] also provide for disbursements to the associations in amounts at least equal to the payments made or to be made thereby for which associations could assert claims against the liquidator, and ***may*** [~~shall~~] further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of ***the*** [~~such~~] payments made or to be made by the association then disbursements ***may*** [~~shall~~] be in the amount of available assets.
- (f) Notice of ***the*** [~~such~~] application shall be given to the associations in and to the commissioners of insurance of each of the states in which the company did business. [~~Any such~~] Notice shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, at least thirty (30) days prior to submission of ***the*** [~~such~~] application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with this subsection.
- ***(g) Notwithstanding any provisions to the contrary, the liquidator may retain assets either directly attributable to policies having no guaranty association coverage or, if no assets are attributable to these polices, the uncovered policies' pro rata share of all assets.***

(2) Recommended claims. The liquidator shall review all claims duly filed in the liquidation and shall make [~~such~~] further investigation as he deems necessary. He may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court. Unresolved disputes shall be determined under KRS 304.33-400. As often as practicable, he shall present to the court reports of claims against the insurer with his recommendations. The reports shall include the name and address of each claimant, the particulars of the claim and the amount of the claim finally recommended if any. As soon as reasonably possible after the last day for filing claims, he shall present a list of all claims not already reported. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment values and the amounts owed. If the insurer has issued policies on the advance premium plan, the liquidator shall report the persons to whom, according to the records of the insurer, unearned premiums are owed and the amounts owed.

(3) Allowance of claims. The court may approve, disapprove, or modify any report on claims by the liquidator, except that the liquidator's agreements with other parties shall be final and binding on the court on claims settled for $500 or less. No claim under a policy of insurance shall be allowed for an amount in excess of the applicable policy limits.

Section 6. KRS 304.33-600 is amended to read as follows:

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under subsection ***(10)*** [~~(7)~~] of KRS 304.33-430.

Section 7. KRS 304.42-020 is amended to read as follows:

The purpose of this subtitle is to protect policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, [~~and~~] supplemental contracts, ***and unallocated annuity contracts issued by member insurers,*** subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing ***the*** [~~such~~] policies or contracts. To provide this protection:

(1) An association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

(2) Members of the association are subject to assessment to provide funds to carry out the purpose of this subtitle; and

(3) The association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

Section 8. KRS 304.42-030 is amended to read as follows:

(1) This subtitle shall provide coverage for the policies and contracts specified in subsection (2) of this section:

 (a) To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under paragraph (b) of this subsection; and

 (b) To persons who are the owners of or certificate holders under ***the*** [~~such~~] policies or contracts, ***or, in the case of unallocated annuity contracts, to the persons who are the contract holders,*** and who:

  1. Are residents; or

  2. Are not residents, but only under the following conditions:

   a. The insurers which issued ***the*** [~~such~~] policies or contracts are domiciled in this state;

   b. ***The*** [~~Such~~] insurers never held a certificate of authority in the states in which ***the*** [~~such~~] persons reside;

   c. ***The*** [~~Such~~] states have associations similar to the association created by this subtitle; and

   d. ***The*** [~~Such~~] persons are not eligible for coverage by ***the*** [~~such~~] associations.

(2) (a) This subtitle shall provide coverage to the persons specified in subsection (1) of this section for***:***

  1. Direct, nongroup life, health, annuity, and supplemental policies or contracts and for certificates issued under direct group policies and contracts ***issued by member insurers; and***

  2. Unallocated contracts issued by member insurers which are subject to liquidation petitions filed after the effective date of this emergency legislation.

 (b) This subtitle shall not provide coverage for:

  1. Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder;

  2. Any policy or contract of reinsurance, unless assumption certificates have been issued;

  3. Any portion of a policy or contract to the extent that the rate of interest on which it is based:

   a. Averaged over the period of four (4) years prior to the date on which the association becomes obligated with respect to ***the*** [~~such~~] policy or contract, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's corporate bond yield average averaged for that same four (4) year period or for ***the*** [~~such~~] lesser period if the policy or contract was issued less than four (4) years before the association became obligated; and

   b. On and after the date on which the association becomes obligated with respect to ***the*** [~~such~~] policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's corporate bond yield average as most recently available;

  4. Any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that ***the*** [~~such~~] plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association, or similar entity under:

   a. A multiple employer welfare arrangement as defined in 29 U.S.C. Section 1144;

   b. A minimum premium group insurance plan;

   c. A stop-loss group insurance plan; or

d. An administrative services only contract;

5. Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of ***the*** ~~[such]~~ policy or contract;

6. Any policy or contract issued in this state by a member insurer at a time when it did not have a certificate of authority to issue ***the*** ~~[such]~~ policy or contract in this state; and

7. Any unallocated annuity contract ***issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; and***

8. Any portion of any unallocated annuity contract which is not issued to or in connection with a specific employee, union, association of natural persons, benefit plan, or a government lottery.

(3) The benefits for which the association may become liable shall in no event exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; ~~[or]~~

(b) With respect to any one (1) life, regardless of the number of policies or contracts:

1. Three hundred thousand dollars ($300,000) in life insurance death benefits, but not more than one hundred thousand dollars ($100,000) net cash surrender and net cash withdrawal values for life insurance;

2. One hundred thousand dollars ($100,000) in health insurance benefits, including any net cash surrender and net cash withdrawal values;

3. One hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values***;***

(c) With respect to each individual participating in a governmental retirement plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each individual if deceased, in the aggregate, one hundred thousand dollars ($100,000) in present value annuity benefits, including net cash surrender and net cash withdrawal values; provided, however, that in no event shall the association be liable to expend more than three hundred thousand dollars ($300,000) in the aggregate with respect to any one individual under subsections (3)(b) and (c); or

(d) With respect to any one contract holder covered by any unallocated annuity contract not included in subsection (3)(c), five million dollars ($5,000,000) in benefits, irrespective of the number of the contracts held by that contract holder.

Section 9. KRS 304.42-050 is amended to read as follows:

As used in this subtitle:

(1) "Account" means either of the three (3) accounts created under KRS 304.42-060.

(2) "Association" means the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060.

(3) "Commissioner" means the commissioner of insurance of this state.

(4) "Contractual obligation" means any obligation under a policy or contract or a certificate under a group policy or contract, or portion thereof, for which coverage is provided under KRS 304.42-030.

(5) "Covered policy" means any policy or contract within the scope of KRS 304.42-030.

(6) "Impaired insurer" means a member insurer which, after June 17, 1978, is not an insolvent insurer and:

(a) Is deemed by the commissioner to be potentially unable to fulfill its contractual obligations; or

(b) Is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(7) "Insolvent insurer" means a member insurer which after June 17, 1978, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(8) "Member insurer" means any insurer authorized to transact in this state any kind of insurance for which coverage is provided under KRS 304.42-030, and includes any insurer whose certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(a) A nonprofit hospital, medical-surgical, dental, and health service corporation, as defined by Subtitle 32 of this chapter;

(b) A health maintenance organization;

(c) A fraternal benefit society;

(d) A mandatory state pooling plan;

(e) An assessment or cooperative insurer or any entity that operates on an assessment basis;

(f) An insurance exchange;

(g) Any entity similar to the above; or

(h) Health insurance where such insurance is written by a member of the Kentucky Insurance Guaranty Association.

(9) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(10) "Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned thereon, and less dividends and experience credits thereon. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under KRS 304.42-030(2), except that assessable premium shall not be reduced on account of KRS 304.42-030(2)(b)3.***; provided that "premium" shall not include any premiums in excess of five million dollars ($5,000,000) on any unallocated annuity contract not issued under a governmental retirement plan established under Section 401, 403(b) or 457 of the United States Internal Revenue Code.***

(11) "Person" means any individual, corporation, partnership, association or voluntary organization.

(12) "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed. A person may be a resident of only one (1) state, which in the case of a person other than a natural person shall be its principal place of business.

(13) "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds.

(14) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under ***a*** [~~such~~] contract or certificate.

Section 10. KRS 304.42-060 is amended to read as follows:

(1) There is created a nonprofit legal entity to be known as the Kentucky Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under KRS 304.42-100 and shall exercise its powers through a board of directors established under KRS 304.42-070. For purposes of administration and assessment, the association shall maintain ***four (4)*** [~~three (3)~~] accounts:

(a) The health insurance account;

(b) The life insurance account; [~~and~~]

(c) The annuity account***; and***

(d) The unallocated annuity account which shall include contracts qualified under Section 403(b) of the United States Internal Revenue Code.

(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

Section 11. KRS 304.33-360 is amended to read as follows:

(1) Deadline for filing. Proof of all claims must be filed with the court in the form required by KRS 304.33-370 on or before the last day for filing specified in the notice required under KRS 304.33-250, except that proof of preferred ownership claims and proprietary claims under subsections ***(11)*** [~~(8)~~] and ***(12)*** [~~(9)~~] of KRS 304.33-430, need not be filed at all, and proof of claims for unearned premiums and claims for cash surrender values or other investment values in life insurance and annuities need not be filed unless the liquidator expressly so requires.

(2) Excused late filings. For good cause shown, the liquidator shall recommend, and the court shall permit, a claimant making a late filing to share in dividends, whether past or future, as if he were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

(a) That existence of a claim was not known to the claimant and that he filed within thirty (30) days after he learned of it;

(b) That a claim for unearned premiums or for cash surrender values or other investment values in life insurance or annuities which was not required to be filed was omitted from the liquidator's recommendations to the court under KRS 304.33-440, and that it was filed within thirty (30) days after the claimant learned of the omission;

(c) That a transfer to a creditor was avoided under KRS 304.33-290 to 304.33-330, inclusive, or was voluntarily surrendered under KRS 304.33-320 and that the filing satisfies the conditions of KRS 304.33-320;

(d) That valuation under KRS 304.33-420 of security held by a secured creditor shows a deficiency, which is filed within thirty (30) days after the valuation; and

(e) That a claim was contingent and became absolute, and was filed within thirty (30) days after it became absolute.

(3) Unexcused late filings. The liquidator may consider any claim filed late which is not covered by subsection (2) of this section, and permit it to receive dividends, other than the first dividend, which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-

filing claimant shall receive, at each distribution, the same percentage of the amount allowed on his claim as is then being paid to other claimants of the same priority plus the same percentage of the amount allowed on his claim as is then being paid to claimants of any lower priority. This shall continue until his claim has been paid in full.

Section 12. Whereas case law gives federal tax claims higher priority than intended under Kentucky law, and whereas, persons with unallocated annuities such as deferred compensation plans should be afforded the same protection as persons with allocated annuities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Health and Welfare reported **HB 59** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 59, AN ACT relating to prohibiting the use of corporal physical discipline or punishment on children in out-of-home placement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.640 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, or maintain any child-caring facility or child-placing agency without having a license to do so issued by the cabinet.

(2) Licenses issued to the agency or facility shall be valid for a period of one (1) year from date of issue unless revoked by the cabinet provided that each licensed facility or agency shall be visited and inspected by a person authorized by the cabinet at least once each year and a complete report of such visit or inspection be filed with the cabinet. Each license issued shall specify the type of care or service the licensee is authorized to perform. Each initial application for a license shall be accompanied by a fee of one hundred dollars ($100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars ($50). The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.

(3) The secretary may ***promulgate*** ~~[adopt]~~ administrative regulations establishing standards of care and service for child-caring facilities and child-placing agencies relating to the sanitary and hygienic conditions, the accommodations available for each child, the diet provided, the safety of the child from fire and other accidents and hazards, and ~~[such]~~ other factors as may be necessary to promote the welfare of children cared for or placed by such agencies and facilities~~[; provided, however, any administrative regulations adopted pursuant to KRS Chapter 13A to govern services provided by church related privately operated child caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline or behavior modification]~~.

(4) Each agency or facility licensed under this section shall keep a record containing:

(a) The names, ages, present, and former residences of all children received;

(b) The names, residence, and occupation so far as is known, of the parents;

(c) The dates of the reception, placing out for adoption or foster care, together with the names, occupation, and residence of the persons with whom the child is placed;

(d) The date and cause of termination of its custody of each child; and

(e) A brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged according to the law.

(5) Parents are received or boarded in a family rehabilitation home pursuant to a written agreement between home and parent.

(6) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.

Calendar

HB 10, HB 682, HB 877, SB 157, SB 185, HB 728, HB 633, SB 49, SB 52, SB 208 and **SB 249** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 381 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Turner moved that the rules be suspended to introduce guests. Agreed.

Representative Nunn moved that the rules be suspended to allow floor privileges to personal guests. Agreed.

Representative Maricle moved that the rules be suspended to introduce guests. Agreed.

Floor Amendments

Floor Amendment No. 3 to **HB 110**, by Representative Damron:

On page 7, after line 10, by inserting the following new section:

"Section 6. KRS 199.8984 is amended to read as follows:

(1) The Child-Care Policy Council is hereby created within the Cabinet for Human Resources. The council shall:

- (a) Promote coordination and communication among state agencies responsible for child-care and early childhood education services;
- (b) Serve as an advisor for state agencies responsible for child-care programs;
- (c) Review state child-care programs and make recommendations to state agencies and the General Assembly related to program implementation, access to child care, the supply of child care, and coordination of child-care and other early childhood programs;
- (d) Review and make recommendations on administrative regulations relating to child-care programs and services;
- (e) Advise the cabinet on application requirements and distribution of contracts to local child-care resource and referral agencies; and
- (f) Submit biennially to the Legislative Research Commission by October 1 in each odd-numbered year a report on the status of child care.

(2) The council shall be composed of ***twenty-five (25)*** [~~seventeen (17)~~] citizen members appointed by the Governor and shall include one (1) member of the House of Representatives appointed by the Speaker of the House and one (1) member of the Senate appointed by the Senate President [~~Pro Tempore~~]. Members of the council shall serve for a term of four (4) years and until their successors are appointed and qualified***. The members of the council*** [~~; they~~] shall be ***the Commissioner for the Department for Social Services and four (4) members from each of the six (6) congressional districts to be determined as follows: one (1) person who operates a day care center which regularly provides day care to more than thirteen (13) children; one (1) person who operates a day care center which regularly provides day care to more than seven (7) but not more than twelve (12) children; one (1) person who operates a family child-care home; and one (1) person who is the parent of a child who regularly attends a child day-care center or family child-care home*** [~~chosen to broadly represent public interest groups concerned with child care services, professionals involved in the delivery of child care services, nonprofit child care providers, for profit child care providers, family child care providers, employers, labor, resource and referral programs, parents, and the general public~~]. The Governor shall appoint the chairman of the council, who shall also serve as one of the voting members of the council. [~~The secretary for human resources, the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council. The commissioner for social services shall be staff director for, and shall provide staff to, the council.~~] The council shall meet at least quarterly and on other occasions as may be necessary. A majority of the appointed members shall constitute a quorum.".

Floor Amendment No. 1 to the Committee Substitute to **HB 311**, by Representative Crenshaw:

On page 2, line 7, after "***nonpayment***" by inserting the following: "***; except that any child support arrearage which exists prior to January 1, 1994 shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended***".

Orders of the Day

HB 405, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 2 to **HB 405**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 405**. Agreed.

Representative B. Smith moved that **HB 405**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 15, 1994 roll call on **HB 405** - Appendix)

HB 405, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 405**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 715, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 715**. Agreed.

Representative Long moved that **HB 715**, as amended, be passed.

Representative Cave moved the adoption of Floor Amendment No. 1 to **HB 715**.

On the roll call on the adoption of Floor Amendment No. 1 to **HB 715**, the vote was **Yeas 39**--Ackerson, Adams, Allen, Altman, Arnold, Bryant, Buis, Cave, P. Clark, DeWeese, Farley, Ford, Gee, Graham, Hampton, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lile, Maricle, Napier, Noland, Nunn, Reinhardt, Richards, Ridley, Riner, Sanders, Simpson, B. Smith, R. Smith, Todd, Treesh, Turner, Walton, Zimmerman. **Nays 53**--Adkins, Bentley, Bondurant, Bowling, Brown, Bruce, Burch, Butler, Callahan, L. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, Donnermeyer, Farrow, Fox, Gedling, Geveden, Gray, Hancock, Lee, LeMaster, Lewis, Lindsay, Little, Long, Maggard, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Nesler, Northup, Palumbo, Rapier, Rasche, Riggs, Scorsone, Scott, Shacklette, Stengel, Stumbo, Trapp, Wayne, Yates.

The motion to adopt Floor Amendment No. 1 to **HB 715** was rejected.

Representative Long moved that **HB 715**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1994 roll call on **HB 715** - Appendix)

HB 715, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 715**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 91** and **HB 297** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:45 p.m.)

HB 91 and **HB 297** delivered to the Senate and signed by the President. Delivered to the Governor on March 15, 1994 at 2:52 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **SB 43**, by Representative Bowling:

On page 4, line 17, delete "convicted" and insert in lieu thereof "who committed the offense"

Orders of the Day (Continued)

HB 481, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 481**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 481**. Agreed.

Representative Brown moved that **HB 481**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 15, 1994 roll call on **HB 481** - Appendix)

HB 481, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 481**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Cyrus moved that the rules be suspended to introduce guests, allow floor privileges and to act upon a

Legislative Citation. Agreed.

Representative Cyrus moved the adoption of the following **Legislative Citation No. 109**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your efforts and offers its sincerest congratulations to Greenup County Varsity Cheerleading Squad, the 1994 14th Annual National High School Cheerleading Champions, for your achievements during your athletic careers. Your team spirit, precision and execution of your gymnastic exhibition while cheering is spectacular. The House of Representatives joins with Representative Ron Cyrus in honoring you on becoming the 1994 14th Annual National High School Cheerleading Champions.

HB 588, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HB 588** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 15 , 1994 roll call on **HB 588** - Appendix)

HB 588 was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 588** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 630, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 630** be passed.

Representative Adams moved the adoption of Floor Amendment No. 1 to **HB 630**. Agreed.

Representative Damron moved that **HB 630**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 15, 1994 roll call on **HB 630** - Appendix)

HB 630, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 630**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 713, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 713**. Agreed.

Representative Geveden moved that **HB 713**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 15, 1994 roll call on **HB 713** - Appendix)

HB 713, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 713**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 742 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 742** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 15 , 1994 roll call on **HB 742** - Appendix)

HB 742 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 742** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 744 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 744** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 15 , 1994 roll call on **HB 744** - Appendix)

HB 744 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 744** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 760, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 760**. Agreed.

Representative Moberly moved that **HB 760**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 15, 1994 roll call on **HB 760** - Appendix)

HB 760, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 760**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 767 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 767** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 15 , 1994 roll call on **HB 767** - Appendix)

HB 767 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 767** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 826, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of Floor Amendment No. 1 to **HB 826**. Agreed.

Representative Lee moved that **HB 826**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 15, 1993 roll call on **HB 826** - Appendix)

HB 826, as amended, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 826**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 830, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Committee Amendment No. 1 to **HB 830**. Agreed.

Representative Curd moved that **HB 830**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 15, 1994 roll call on **HB 830** - Appendix)

HB 830, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 830**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 776, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 776**. Agreed.

Representative Deskins moved that **HB 776**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 15, 1994 roll call on **HB 776** - Appendix)

HB 776, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 776**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 301**, by Representative Barrows:

On page 1, line 15 by deleting "91,985,200" and inserting in lieu thereof "91,647,500"; and
On page 1, line 15 by deleting "96,456,300" and inserting in lieu thereof "95,784,300"; and
On page 1, line 18 by deleting "92,145,800" and inserting in lieu thereof "91,808,100"; and
On page 1, line 18 by deleting "96,599,700" and inserting in lieu thereof "95,927,700"; and
On page 1, line 22, by deleting "seven percent (7%)" and inserting in lieu thereof "five percent (5%)"; and
On page 2, line 1, by deleting "seven percent (7%)" and inserting in lieu thereof "five percent (5%)"; and
On page 2, line 13 by deleting "108,317,500" and inserting in lieu thereof "107,979,800"; and
On page 2, line 13 by deleting "114,070,500" and inserting in lieu thereof "113,398,500"; and
On page 2, line 16 by deleting "108,478,100" and inserting in lieu thereof "108,140,400"; and
On page 2, line 16 by deleting "114,213,900" and inserting in lieu thereof "113,541,900"; and
On page 3, line 2 by deleting "112,111,100" and inserting in lieu thereof "111,773,400"; and
On page 3, line 2 by deleting "117,870,500" and inserting in lieu thereof "117,198,500"; and
On page 3, line 5 by deleting "112,271,700" and inserting in lieu thereof "111,934,000"; and
On page 3, line 5 by deleting "118,013,900" and inserting in lieu thereof "117,341,900"; and
On page 4, line 10 by deleting "113,133,700" and inserting in lieu thereof "112,796,000"; and
On page 4, line 10 by deleting "118,735,800" and inserting in lieu thereof "118,063,800; and
On page 4, line 13 by deleting "113,377,000" and inserting in lieu thereof "113,039,300"; and
On page 4, line 13 by deleting "118,879,200" and inserting in lieu thereof "118,207,200".

Floor Amendment No. 1 to the Committee Substitute to **HB 302**, by Representative Barrows:

On page 39, line 8, by deleting the words "Pursuant to this policy direction" and insert in lieu thereof "In addition"; and

On page 39, line 9, by deleting the words "the revenues generated from the development of the"; and insert in lieu thereof "Bond Funds"; and

On page 39, line 10, by deleting the words "Coldstream Research Park"; and

On page 91, line 8, by deleting the words "Restricted Fund", and inserting in lieu thereof "Bond Funds"; and

On page 91, line 18, by deleting the amount "46,000,000" and inserting in lieu thereof the amount "34,000,000".

Floor Amendment No. 1 to the Committee Substitute to **HB 580**, by Representative Reinhardt:

On page 1, line 8, by deleting the words "***fifteen dollars ($15)***" and inserting in lieu thereof the words "***five dollars ($5)***;
And on page 1, line 8, by inserting the following after the word "***sold***": "***. The registration requirement under this section shall not apply to permanent business establishments which are open year round and in which the sale of fireworks is ancillary to the primary course of business***";
And on page 3, line 2, by deleting the words "***by the seller***".

Floor Amendment No. 2 to the Committee Substitute to **HB 580**, by Representative Marzian:

On page 1, line 8, by deleting the words "***fifteen dollars ($15)***" and inserting in lieu thereof the words "***five dollars ($5)***;
And on page 1, line 8, by inserting the following after the word "***sold***": "***. The registration requirement under this section shall not apply to permanent business establishments which are open year round and in which the sale of fireworks is ancillary to the primary course of business***";
And on page 3, line 2, by deleting the words "***by the seller***".

Orders of the Day (Continued)

HB 787 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 787** be passed.

On the roll call the vote was: Yeas 81, Nays 9. (See March 15 , 1994 roll call on **HB 787** - Appendix)

HB 787 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 787** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 836 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 836** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 15 , 1994 roll call on **HB 836** - Appendix)

HB 836 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 836** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 852, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to **HB 852**. Agreed.

Representative Rapier moved that **HB 852**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 15, 1994 roll call on **HB 852** - Appendix)

HB 852, by way of Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 852**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 390, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 390**. Agreed.

The Speaker Pro Tempore assumed the Chair.

Representative Bowling moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 390**. Agreed.

Representative Stumbo moved that **HB 390**, by way of Committee Substitute as amended, be passed.

Representative Lee moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 390**. Agreed.

Representative Bowling moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 390**. Agreed.

Representative Farrow inquired if **HB 390** complied with Section 51 of the Constitution of the Commonwealth of Kentucky.

The Speaker resumed the Chair.

The Speaker ruled that **HB 390** does comply with Section 51 of the Constitution of the Commonwealth of Kentucky.

Representative Bowling moved that **HB 390**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 66, Nays 23. (See March 15, 1994 roll call on **HB 390** - Appendix)

HB 390, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 390**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 80, SB 81, SB 222, SB 343, SB 344, HB 45, HB 466, HCR 36, HCR 43** and **HCR 47**. (Time: 3:50 p.m.)

Orders of the Day (Continued)

HB 864, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Committee Substitute to **HB 864**. Agreed.

Representative Morris moved that **HB 864**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 15, 1994 roll call on **HB 864** - Appendix)

HB 864, by way of Committee Substitute, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 864**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 867 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 867** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 15 , 1994 roll call on **HB 867** - Appendix)

HB 867 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 867** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 875 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 875** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 15 , 1994 roll call on **HB 875** - Appendix)

HB 875 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 875** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 889, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **HB 889**. Agreed.

Representative Cyrus moved that **HB 889**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 15, 1994 roll call on **HB 889** - Appendix)

HB 889, by way of Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 889**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 898**, by Representative Heleringer:

On page 7, after line 20, by inserting the following:

"***(4) Ten percent (10%) of all net proceeds generated from the activities provided for in subsections (1) and (2) of this section shall be allocated to the backside improvement fund. These funds shall be utilized by the Backside Improvement Commission solely for construction, furnishing, and maintenance of on-site dormitories for licensed and employed backside employees, to include but not be limited to, grooms, hot walkers, stable attendants, exercise boys, exercise girls, and others***

as determined by administrative regulation promulgated by the commission. All facilities constructed on association grounds shall be managed by the association and shall be made available to licensed and employed backside employees and personnel during live race meetings and at those times the backside or stable area is open for training purposes. As used in this section, "net proceeds" means adjusted proceeds less deductions by the host track and applicable taxes.

(5) The Backside Improvement Commission shall consider for approval all construction projects pursuant to subsection (4) of this section. The Backside Improvement Commission shall provide annual reports to the Legislative Research Commission on capitol projects funded by the backside improvement fund." and

on page 15, after line 10, by inserting the following:

"Section 6. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky Racing Commission, a Backside Improvement Commission. This commission shall consist of ***five (5)*** ~~[four (4)]~~ members, ***all*** ~~[three (3)]~~ of which shall be voting members ~~[and one (1) shall be a nonvoting member]~~. The ~~[voting]~~ members shall be as follows: one (1) member appointed by the President Pro Tempore of the Kentucky Senate, one (1) member appointed by the Speaker of the Kentucky House of Representatives, ~~[and]~~ one (1) member appointed by the chairman of the Kentucky Racing Commission***, one (1)*** ~~[. The nonvoting]~~ member shall be appointed by the Kentucky ~~[division of the]~~ Horsemen's Benevolent and Protective Association***, and one (1) member shall be appointed by the Kentucky Thoroughbred Association***. The appointee of the chairman of the Kentucky Racing Commission shall serve as chairman of the Backside Improvement Commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the Backside Improvement Commission, consisting of money allocated to the fund under the provisions of KRS 230.3615, together with ***all*** ~~[such]~~ other money ***that*** ~~[as]~~ may be contributed to or allocated to the fund from ***any*** ~~[all]~~ other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year. The Backside Improvement Commission shall have the authority and may invest any and all funds received by the trust fund and interest earned by the investment of said funds in types of investments appropriate to the investment needs of the trust fund after having considered the financial return on authorized investment alternatives, the financial safety of investment alternatives and the impact of any authorized investments on the state's economy. The Backside Improvement Commission shall review the status of the trust fund investments quarterly and report its findings to the Finance and Administration Cabinet, the Kentucky Racing Commission and the Legislative Research Commission.

(3) The Backside Improvement Commission shall employ qualified personnel as may be required to assist the commission in carrying out the provisions of this section. These persons shall serve at the pleasure of the commission and compensation for personnel shall be fixed by the commission. The compensation of personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of thoroughbred racing associations averaging one million two hundred thousand dollars ($1,200,000) or less pari-mutuel handle per racing day on live racing. The Backside Improvement Commission shall use the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. Conditions considered shall include but not be limited to the living and working quarters of backside employees.

(5) The Kentucky Racing Commission shall promulgate administrative regulations as may be necessary to carry out the provisions and purposes of this section.

Floor Amendment No. 1 to **SB 24**, by Representative Rapier:

On page 6, after line 3, by adding the following:

"Section 3. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's Higher Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Higher Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public institution of higher education***,*** ~~[or]~~ the Council on Higher Education***, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television*** during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on Higher Education Student Advisory Committee;
3. Associations representing faculty from universities and community colleges;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The State Board for Elementary and Secondary Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. ~~[Appointments shall be submitted to the 1992 Senate and House of Representatives for confirmation as soon as practicable following February 20, 1992. Subsequent]~~ Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on Higher Education pursuant to KRS 164.011, except the student member. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Higher Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) ***The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.***

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen ~~[board]~~ vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 1. KRS 164.746, as amended in Section 4 of 1994 Senate Bill 40, is further amended to read as follows:

(1) The authority shall be governed and all of its powers, duties, and functions exercised by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the executive director of the Council on Higher Education and the secretary of the Department of Finance shall serve as non-voting ex officio members. ~~[Effective July 1, 1994, three (3) members shall serve for a term of two (2) years and four (4) members shall serve for a term of four (4) years. All succeeding terms]~~ The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person

appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of two (2) years. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding two (2) years and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings. A majority of the voting members shall constitute a quorum for the transaction of any business, provided, however, that the meeting must be called by the chairman ten (10) days prior to the meeting date and either the chairman or the chairman-elect must be present for the transaction of any business.

(6) The board shall adopt rules and regulations, not inconsistent with law, governing the conduct of the authority and may appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties; provided, however, that the responsibility for the management of all funds shall be vested in the Finance and Administration Cabinet.

[~~(7) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, seven (7) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.~~]

Section 2. KRS 164A.050, as amended in Section 5 of Senate Bill 40, is further amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on Higher Education, the secretary of the Finance and Administration Cabinet and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. [~~Effective July 1, 1994~~] ***Of the new members of the corporation so appointed***, two (2) [~~members~~]shall [~~serve~~] ***continue in office*** for a term of four (4) years, and two (2) shall [~~serve~~] ***continue in office*** for a term of [~~two (2)~~] ***three (3) years***. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical and

administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

~~[(13) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, four (4) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.]~~

Section 6 . The existing boards of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation shall continue in operation and changes made by Sections 4 and 5 of this Act shall only apply to vacancies and replacements occurring subsequent to the effective date of this Act. Contrary provisions of Section 6 of 1994 Senate Bill 40 as they relate to these two specific boards are hereby repealed."

On page 6, line 4, after "Section", by changing "3" to "7".

Orders of the Day (Continued)

HB 890 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 890** be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 15 , 1994 roll call on **HB 890** - Appendix)

HB 890 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 890** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 891, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 891** be passed.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **HB 891**. Agreed.

Representative LeMaster moved that **HB 891**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 15, 1993 roll call on **HB 891** - Appendix)

HB 891, as amended, was passed.

Representative LeMaster moved the adoption of the Floor Title Amendment to **HB 891**. Agreed; and the title was agreed to.

Representative LeMaster moved that the vote by which **HB 891**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 900, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of Committee Amendment No. 1 to **HB 900**. Agreed.

Representative Nesler moved that **HB 900**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 15, 1994 roll call on **HB 900** - Appendix)

HB 900, as amended, was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 900**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 24**, by Representative Rapier:

By amending the title to read as follows:

"AN ACT relating to state agencies."

Floor Amendment No. 2 to the Committee Substitute to **HB 302**, by Representative Lear:

On page 18, line 27, by deleting the amount "2,473,900" and inserting the amount "2,643,900"; and by deleting the amount "2,460,600" and inserting the amount "2,630,600"; and

On page 21, line 1, by deleting the amount "2,730,400" and inserting the amount "3,180,400"; and by deleting the amount "3,047,800" and inserting the amount "3,747,800"; and

On page 21, line 4, by deleting the amount "3,275,700" and inserting the amount "3,725,700"; and by deleting the amount "3,855,600" and inserting the amount "4,555,600; and

On page 21, by deleting line 10 in its entirety and inserting in lieu thereof the following " Included in the General Fund appropriation is $600,000 in fiscal year 1994-95 and $850,000 in fiscal year 1995-96"; and

On page 21, line 25, by deleting the amount "63,134,600" and inserting the amount "63,754,600", and by deleting the amount "67,759,600" and inserting the amount "68,629,600"; and

On page 22, line 1, by deleting the amount "65,512,800" and inserting the amount "66,132,800", and by deleting the amount "70,399,500" and inserting the amount "71,269,500"; and

On page 191, line 12, by deleting the amount "4,802,025,100" and inserting the amount "4,802,645,100", and by deleting the amount "5,080,865,200" and inserting the amount "5,081,735,200"; and

On page 191, line 17, by deleting the amount "11,389,650,500" and inserting the amount "11,390,270,500", and by deleting the amount "11,889,063,100" and inserting the amount "11,889,933,100".

Orders of the Day (Continued)

HB 810 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 810** be passed.

On the roll call the vote was: Yeas 65, Nays 21. (See March 15 , 1994 roll call on **HB 810** - Appendix)

HB 810 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 810** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 904, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **HB 904**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 904**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 904**. Agreed.

Representative Lear moved that **HB 904**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 6. (See March 15, 1994 roll call on **HB 904** - Appendix)

HB 904, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 904**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 929 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 929** be passed.

On the roll call the vote was: Yeas 42, Nays 48. (See March 15 , 1994 roll call on **HB 929** - Appendix)

HB 929 was defeated.

Representative Keith moved the clincher motion.

Representative Stumbo requested that Representative Keith make the proper clincher motion.

Representative Keith yielded to Representative Lindsay.

Representative Lindsay moved that the vote by which **HB 929** was defeated be reconsidered and said motion be placed on the table.

On the roll call that the vote by which **HB 929** was defeated be reconsidered and said motion be placed on the table, the vote was **Yeas 44**--Ackerson, Allen, Altman, Bowling, Brown, Bryant, Buis, Butler, Callahan, Cave, Collins, Curd, Damron, Donnermeyer, Farley, Farrow, Ford, French, Gee, Graham, Gray, Hampton, Heleringer, Johnson, Keith, Lile, Lindsay, Maggard, Maricle, Mullinix, Napier, Nesler, Noland, Riner, Sanders, Simpson, B. Smith, R. Smith, Todd, Trapp, Treesh, Turner, Yates, Zimmerman. **Nays 44**--Adams, Barrows, Bentley, Bondurant, Bruce, Burch, L. Clark, P. Clark, Clarke, Crenshaw, Cyrus, Deskins, DeWeese, Fox, Gedling, Geveden, Hancock, Hatcher, Jensen, Kerr, Lear, Lee, LeMaster, Lewis, Long, Marzian, Mason, McElroy, Moberly, Morris, Northup, Rapier, Reinhardt, Richards, Ridley, Riggs, Scorsone, Scott, Shacklette, Stacy, Stengel, Stumbo, Walton, Wayne.

The motion that the vote by which **HB 929** was defeated be reconsidered and said motion be placed on the table was rejected.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 302**, by Representative Geveden:

On page 38, line 25, by deleting the amount "245,565,800" and inserting in lieu thereof the amount "246,065,800"; and

On page 38, line 25, by deleting the amount "255,523,700" and inserting in lieu thereof the amount "256,023,700"; and

On page 39, line 1, by deleting the amount "754,755,800" and inserting in lieu thereof the amount "755,255,800"; and

On page 39, line 1, by deleting the amount "787,733,200" and inserting in lieu thereof the amount "788,233,200"; and

On page 39, after line 17 and before line 18, by adding the following: "Included in the above General Fund appropriation is $500,000 in fiscal year 1994-95 and $500,000 in fiscal year 1995-96 for construction of an English/science/classroom and library building in which to provide space for course offerings or other programming in the field of engineering at the Paducah Community College. The appropriation of these funds are for providing enhancement activities in addition to the current engineering education programming currently being provided. It is the intent of the General Assembly that the program developed with use of these funds be implemented in such a way as to be consistent with all engineering education accreditation standards. It is the intent of the General Assembly that the University of Kentucky shall make available from its internal resources, $500,000 in each fiscal year above the current level of funding for these activities, in order to match the additional General Fund appropriation described in this section. Moreover, contingent upon local and/or private fundraising support of $2,000,000 in additional funding per year beyond the amounts heretofore described, there is appropriated from the General Fund surplus account in fiscal year 1995 and fiscal year 1996, $2,000,000 per year in additional funding to match the private and local fundraising effort for engineering enhancement. The University shall develop a plan for the expenditure of these funds, in cooperation with Murray State University to the extent the plan is consistent with the mission statement of Murray State University, for presentation to the Governor, the Interim Appropriations and Revenue Committee, and the Interim Education Committee, no later than July 1, 1994. On an annual basis thereafter, the University shall provide a financial and programmatic status report on the progress of this initiative."; and

On page 191, line 12, by deleting the amount "4,802,025,100" and inserting in lieu thereof the amount "4,802,525,100"; and

On page 191, line 12, by deleting the amount "5,080,865,200" and inserting in lieu thereof the amount "5,081,365,200"; and

On page 192, line 8, by deleting the amount "4,846,466,100" and inserting in lieu thereof the amount "4,846,946,100"; and

On page 192, line 8, by deleting the amount "5,089,290,200" and inserting in lieu thereof the amount

"5,089,790,200"; and

On page 192, line 17, by deleting the amount "12,247,332,400" and inserting in lieu thereof the amount "12,247,832,400"; and

On page 192, line 17, by deleting the amount "12,137,524,100" and inserting in lieu thereof the amount "12,138,024,100".

Orders of the Day (Continued)

HB 556, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Committee Amendment No. 1 to **HB 556**. Agreed.

Representative Maggard moved the adoption of Floor Amendment No. 1 to **HB 556**. Agreed.

Representative Geveden moved that **HB 556**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 10. (See March 15, 1994 roll call on **HB 556** - Appendix)

HB 556, as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 556**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 726, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HB 726**. Agreed.

Representative Richards moved that **HB 726**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 15, 1994 roll call on **HB 726** - Appendix)

HB 726, by way of Committee Substitute, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 726**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 647, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 647**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 647**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 647**. Agreed.

Representative Long moved that **HB 647**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: Yeas 68, Nays 20. (See March 15, 1994 roll call on **HB 647** - Appendix)

HB 647, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 647**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 45**, **HB 466**, **HCR 36**, **HCR 43** and **HCR 47** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:46 p.m.)

HB 45, HB 466, HCR 36, HCR 43 and **HCR 47** delivered to the Senate and signed by the President. Delivered to the Governor on March 15 at 5:03 p.m.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 302**, by Representative Yates:

On page 67, line 9, by deleting the amount "932,200" and inserting the amount "2,932,200" for fiscal year 1994-95; and by deleting the amount "939,600" and inserting the amount "2,939,600" for fiscal year 1995-96; and

On page 67, line 12, by deleting the amount "4,828,000" and inserting the amount "6,828,000" for fiscal year 1994-95; and by deleting the amount "4,845,900" and inserting the amount "6,845,900" for fiscal year 1995-96; and

On page 67, after line 12 and before line 13, by adding the following: " Included within the above General Fund appropriation is $2,000,000 in fiscal year 1994-95 and $2,000,000 in fiscal year 1995-96 to provide school bus transportation service to nonpublic school students. Each county may apply to the Transportation Cabinet for support from this appropriation."; and

On page 72, line 2, by deleting the amount "4,125,800" and inserting the amount "6,125,800" for fiscal year 1994-95; and by deleting the amount "3,160,200" and inserting the amount "5,160,200" for fiscal year 1995-96; and

On page 72, line 7, by deleting the amount "1,285,259,500" and inserting the amount "1,287,259,500" for fiscal year 1994-95; and by deleting the amount "1,312,649,600" and inserting the amount "1,314,649,600" for fiscal year 1995-96; and

On page 191, line 12, by deleting the amount "4,802,025,100" and inserting the amount "4,804,025,100" for fiscal year 1994-95; and by deleting the amount "5,080,865,200" and inserting the amount "5,082,865,200" for fiscal year 1995-96; and

On page 191, line 17, by deleting the amount "11,389,650,500" and inserting the amount "11,391,650,500" for fiscal year 1994-95; and by deleting the amount "11,889,063,100" and inserting the amount "11,891,063,100" for fiscal year 1995-96; and

On page 192, line 8, by deleting the amount "4,846,446,100" and inserting the amount "4,848,446,100" for fiscal year 1994-95; and by deleting the amount "5,089,290,200" and inserting the amount "5,091,290,200" for fiscal year 1995-96; and

On page 192, line 17, by deleting the amount "12,247,332,400" and inserting the amount "12,249,332,400" for fiscal year 1994-95; and by deleting the amount "12,137,524,100" and inserting the amount "12,139,524,100" for fiscal year 1995-96.

Floor Amendment No. 1 to **SB 162**, by Representative Moberly:

On page 1, line 18, after "pupils", by adding "***and may include two (2) additional days for planning activities without the presence of pupils. The school council shall determine the activities, which may include planning, assessment activities, and parent-teacher conference conducted on at least two (2) of the required four (4) days***" and by placing a"[" before "pursuant" and by placing a "]" after "158.720" and striking through the intervening language;

On page 1, line 21, after "Friday.", by placing a "[" and by placing a "]", after "pupils." on line 22, and striking through the intervening language;

On page 3, line 17, after "additional", by adding "***planning, assessment activities, or***" and after "if:", by placing a "[" and a "]" after "(a)" on line 19, and striking through the intervening language;

On page 3, line 19, by making the initial letter of "The" lowercase; and after "board", by inserting "***designates***" and placing brackets around and striking through "determines";

On page 3, line 20, by placing brackets around and striking through "for professional development and designates them";

On page 3, line 21, by placing brackets around and striking through "(b)";

On page 3, line 22, after "and", by inserting "***submitted to***" by placing brackets around and striking through "approved by" and after "district", by inserting "***professional development coordinator***" and by placing a "[" before "superintendent" and a "]" after "Education" on line 23, and striking through the intervening language.

Floor Amendment No. 2 to the Committee Substitute to **HB 898**, by Representative Heleringer:

On page 7, after line 20, by inserting the following:

"*(4) Ten percent (10%) of all net proceeds generated from the activities provided for in subsections (1) and (2) of this section shall be allocated to the backside improvement fund. These funds shall be utilized by the Backside Improvement Commission solely for construction, furnishing, and maintenance of on-site dormitories for licensed and employed backside employees, to include but not be limited to, grooms, hot walkers, stable attendants, exercise boys, exercise girls, and others as determined by administrative regulation promulgated by the commission. All facilities constructed on association grounds shall be deemed the property of the association, managed by the association, and made available to licensed and employed backside employees and personnel during live race meetings and at those times the backside or stable area is open for training purposes. As used in this section, "net proceeds" means adjusted proceeds less deductions by the host track and applicable taxes.*

(5) The Backside Improvement Commission shall consider for approval all construction projects pursuant to subsection (4) of this section. The Backside Improvement Commission shall provide annual reports to the Legislative Research Commission on capitol projects funded by the backside improvement fund." and

on page 15, after line 10, by inserting the following:

"Section 6. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky Racing Commission, a Backside Improvement Commission. This commission shall consist of *five (5)* [~~four (4)~~] members, *all* [~~three (3)~~] of which shall be voting members [~~and one (1) shall be a nonvoting member~~]. The [~~voting~~] members shall be as follows: one (1) member appointed by the President Pro Tempore of the Kentucky Senate, one (1) member appointed by the Speaker of the Kentucky House of Representatives, [~~and~~] one (1) member appointed by the chairman of the Kentucky Racing Commission*, one (1)* [~~. The nonvoting~~] member shall be appointed by the Kentucky [~~division of the~~] Horsemen's Benevolent and Protective Association*, and one (1) member shall be appointed by the Kentucky Thoroughbred Association*. The appointee of the chairman of the Kentucky Racing Commission shall serve as chairman of the Backside Improvement Commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the Backside Improvement Commission, consisting of money allocated to the fund under the provisions of KRS 230.3615, together with *all* [~~such~~] other money *that* [~~as~~] may be contributed to or allocated to the fund from *any* [~~all~~] other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year. The Backside Improvement Commission shall have the authority and may invest any and all funds received by the trust fund and interest earned by the investment of said funds in types of investments appropriate to the investment needs of the trust fund after having considered the financial return on authorized investment alternatives, the financial safety of investment alternatives and the impact of any authorized investments on the state's economy. The Backside Improvement Commission shall review the status of the trust fund investments quarterly and report its findings to the Finance and Administration Cabinet, the Kentucky Racing Commission and the Legislative Research Commission.

(3) The Backside Improvement Commission shall employ qualified personnel as may be required to assist the commission in carrying out the provisions of this section. These persons shall serve at the pleasure of the commission and compensation for personnel shall be fixed by the commission. The compensation of personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of thoroughbred racing associations averaging one million two hundred thousand dollars ($1,200,000) or less pari-mutuel handle per racing day on live racing. The Backside Improvement Commission shall use the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. Conditions considered shall include but not be limited to the living and working quarters of backside employees.

(5) The Kentucky Racing Commission shall promulgate administrative regulations as may be necessary to carry out the provisions and purposes of this section.

Orders of the Day (Continued)

SB 242, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **SB 242** be passed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **SB 242**.

On the roll call to adopt Floor Amendment No. 1 to **SB 242** the vote was **Yeas 68**--Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bondurant, Bruce, Bryant, Buis, Cave, P. Clark, Coleman, Collins, Crenshaw, Cyrus, Damron, Deskins, DeWeese, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Hampton, Hancock, Hatcher, Heleringer, Johnson, Keith, Kerr, Lee, Lindsay, Little, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Reinhardt, Ridley, Riggs, Sanders, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 26**–Ackerson, Bentley, Bowling, Brown, Burch, Butler, Callahan, L. Clark, Clarke, Curd, Donnermeyer, Gray, Lear, Lewis, Lile, Long, Northup, Nunn, Rapier, Rasche, Richards, Riner, Scorsone, Trapp, Wayne, Yates.

The motion to adopt Floor Amendment No. 1 to **SB 242** was adopted.

Representative Curd moved that **SB 242** be laid on the table.

On the roll call to lay **SB 242** on the table, the vote was **Yeas 22**–Bentley, Bowling, Burch, Butler, Callahan, L. Clark, P. Clark, Clarke, Curd, Lear, Lewis, Long, Marzian, Mason, Northup, Nunn, Palumbo, Rapier, Rasche, Scorsone, Wayne, Zimmerman. **Nays 62**–Adams, Adkins, Allen, Altman, Arnold, Barrows, Bondurant, Bruce, Bryant, Buis, Cave, Coleman, Collins, Crenshaw, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, Gedling, Gee, Geveden, Graham, Gray, Hampton, Heleringer, Johnson, Keith, Kerr, Lee, Lindsay, Little, Maricle, McElroy, Moberly, Morris, Mullinix, Napier, Nesler, Noland, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton.

The motion to lay **SB 242** on the table was rejected.

Representative Barrows moved that **SB 242**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 23. (See March 15, 1994 roll call on **SB 242** - Appendix)

SB 242, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 242**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 538, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HB 538**. Agreed.

Representative R. Smith moved that **HB 538**, by way of Committee Substitute, be passed.

Representative Bowling moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 538**. Agreed.

Representative R. Smith moved that **HB 538**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 15, 1994 roll call on **HB 538** - Appendix)

HB 538, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 538**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 681, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 681**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 681**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 681**. Agreed.

Representative Brown moved that **HB 681**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 15, 1994 roll call on **HB 681** - Appendix)

HB 681, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 681**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 84 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HCR 84** be adopted.

On the roll call the vote was: Yeas 86, Nays 2. (See March 15 , 1994 roll call on **HCR 84** - Appendix)

HCR 84 was adopted.

Representative Arnold moved that the vote by which **HCR 84** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 685, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Committee Amendment No. 1 to **HB 685**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to **HB 685**. Agreed.

Representative Bentley moved the adoption of Committee Amendment No. 2 to **HB 685**. Agreed.

Representative Curd moved that **HB 685**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1994 roll call on **HB 685** - Appendix)

HB 685, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 685**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 646**, by Representative Marzian:

And on page 5, line 1, By inserting after "***311.654.***" the following new sentence: "***The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.***"

And on page 5, between lines 9 and 10, By inserting the following new subsection:

"***(6) Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.***"

Floor Amendment No. 2 to **HB 587**, by Representative Riggs:

On page 2, line 15, to delete "***or be in physical control of***"; and

On page 2, line 21, to delete "***driving***" and to insert in lieu thereof "***vessel operating***"; and

On page 2, line 23, to delete "***driving***" and to insert in lieu thereof "***vessel operating***"; and

On page 2, line 25, to delete "***or been in physical control of***"; and

On page 10, line 6, to delete "***or is in physical control of*** "; and

On page 10, line 10, to delete "***driving***" and to insert in lieu thereof "***vessel operating***"; and

On page 13, line 27, following "chapter or" to add "***administrative***"; and

On page 15, lines 20 and 21, to delete "***or being in control of***"; and

On page 15, line 22, to delete "***driving***" and to insert in lieu thereof "***vessel operating***".

Orders of the Day (Continued)

HB 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 202** be passed.

On the roll call the vote was: Yeas 69, Nays 17. (See March 15 , 1994 roll call on **HB 202** - Appendix)

HB 202 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 599, SB 346, SB 307** and **SB 136**. Agreed.

Representative Stumbo moved that **HCR 42** be reassigned to the Committee on Education. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HCR 42**. Agreed.

Representative Stumbo moved that **SB 287** be reassigned to the Committee on Banking and Insurance and that the three day posting requirement be waived on **SB 287**. Agreed.

Representative Stumbo moved that **HB 496** be placed in the Orders of the Day for March 16, 1994. Agreed.

Representative Stumbo moved that **HB 487** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that **HB 668** be recommitted to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HCR 42, HCR 95** and **HJR 96**. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **SB 258**

State Government: **HB 598, HB 627, HB 655, HB 839, HB 866, SB 248, SB 262, SB 277, SB 301, SB 313, SCR 65**

Judiciary: **SB 136, HB 821**

Cities: **SB 303**

Banking and Insurance: **HB 599, SB 287**

Report of Committees (Continued)

The Committee on Counties and Special Districts reported **HB 811, HB 879,** with Committee Substitute attached thereto, **HB 885, HB 901, SB 188,** with Committee Amendment attached thereto, **SB 199** and **SB 234,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 811, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 107.320 is amended to read as follows:

~~[In counties containing a city of the first or second class,]~~ A community improvement district may be created as provided in KRS 65.182 for the purpose of erecting buildings and related facilities for any governmental unit, or combination of governmental units, in the county. Any community improvement district so created shall include all of the territory in the county, including the area of incorporated cities, and shall be designated the "County Community Improvement District" (hereinafter called the "district"). The district shall constitute a public body corporate, with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to public nonprofit corporations generally by KRS Chapter 273, except such powers as may be inconsistent with specific provisions of KRS 107.310 to 107.500.

HB 879, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.060 is amended to read as follows:

(1) ~~[Except as provided in subsection (2) of this section,]~~ Sheriffs, constables, coroners, marshals, and policemen shall be paid out of the State Treasury for the following services the following fees:

(a) Apprehending a person on charge of felony, or a fugitive
from justice charged with a felony in this state .... ***$10.00***~~[$3.00]~~

(b) Executing a process of contempt in a criminal case when the court excuses the contempt 1.60

(c) Executing a summons upon a witness in behalf
of the Commonwealth in a felony case .... ***3.00***~~[0.75~~]

(d) Summoning a jury, on order of a court, in a county other than that in which the action is pending, a reasonable allowance to be fixed by the court.

(e) Summoning and attending a jury in a case of felony 2.50

(f) Serving a domestic violence emergency protective order ***3.00***

(g) Serving a civil summons in a nonsupport case ***10.00***

(2) ~~[A sheriff shall, if he requests and receives approval from the fiscal court of his county, be paid out of the State Treasury for the following services the following fees:~~

~~(a) Apprehending a person on charge of felony, or a fugitive from~~
~~justice charged with a felony in this state .... $10.00~~

~~(b) Executing a summons upon a witness in behalf of the~~
~~Commonwealth in a felony case .... 3.00~~

~~(c) Serving a domestic violence emergency protective order .... 3.00~~

~~(d) Serving a civil summons in a nonsupport case .... 10.00~~

~~(3)~~] Except when required by subsection ***(1)(f)*** [~~(2)(c)~~] of this section, no claim for services incidental to examining courts shall be allowed to any sheriff, deputy sheriff, constable, marshal, policeman, or other officer authorized to execute process in felony cases until the grand jury has returned an indictment for a felony.

The Committee Substitute to **HB 879** is as follows:

HB 879, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.060 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, sheriffs, constables, coroners, marshals, and policemen shall be paid out of the State Treasury for the following services the following fees:

(a) Apprehending a person on charge of felony, or a fugitive
from justice charged with a felony in this state $3.00

(b) Executing a process of contempt in a criminal
case when the court excuses the contempt 1.60

(c) Executing a summons upon a witness in behalf
of the Commonwealth in a felony case 0.75

(d) Summoning a jury, on order of a court, in a county other than that in which the action is pending, a reasonable allowance to be fixed by the court.

(e) Summoning and attending a jury in a case of felony 2.50

(2) A sheriff shall~~[, if he requests and receives approval from the fiscal court of his county,]~~ be paid out of the State Treasury for the following services the following fees:

(a) Apprehending a person on charge of felony, or a fugitive from
justice charged with a felony in this state $10.00

(b) Executing a summons upon a witness in behalf of the
Commonwealth in a felony case 3.00

(c) Serving a domestic violence emergency protective order 3.00

(d) Serving a civil summons in a nonsupport case 10.00

(3) Except when required by subsection (2)(c) of this section, no claim for services incidental to examining courts shall be allowed to any sheriff, deputy sheriff, constable, marshal, policeman, or other officer authorized to execute process in felony cases until the grand jury has returned an indictment for a felony.

HB 885, AN ACT relating to court security.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.092 is amended to read as follows:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate.

(2) Compensation shall not be provided for more than one (1) sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate and the utilization of additional personnel is approved by the Chief Justice, or his designee. In the event of an emergency of such nature precluding contacting the Chief Justice or his designee, the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one (1) court or courtroom during a single day he shall be paid as if he had served only one (1) courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the Chief Judge of the Circuit Court, if the service was to the Circuit Court, or by the Chief Judge of the District Court, if the service was to the District Court.

(6) Compensation shall be at the following rates:

    (a) For the first three (3) hours of service in a single day, ten dollars ($10).

    (b) For service beyond three (3) hours, such additional service shall be compensated at the current federal minimum wage. Compensation for such service shall be pro-rated for the actual number of minutes service within a given hour.

(7) The sheriff shall receive five dollars ($5) from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175 and 24A.180 to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection are authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation. ***The sheriff shall supplement the compensation provided for in subsection (6) of this section so that his employees who provide court security pursuant to this section receive no less than the rate of compensation of other deputies of similar length of service.***

HB 901, AN ACT relating to retirement benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.430 is amended to read as follows:

The rate of retirement annuity shall be two and one-half percent (2 1/2%) of average salary, as defined in KRS 67A.360(13), for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of ***the*** [~~such~~] annuities according to the aforesaid rate. [~~Provided, however, that~~] No retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than ***the poverty level for a single person established by the United States Department of Commerce, and when the poverty level is*** [~~$100 a month and when Social Security benefits are~~] increased, the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

SB 188, AN ACT relating to police force merit boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.460 is amended to read as follows:

Procedural due process shall be afforded to all police officers by the board. The board shall ***inform*** [~~afford~~] any officer, promptly and in writing, of any charges brought against ***the*** [~~said~~] officer by the board. The officer shall be given a prompt hearing by the board, [~~shall~~] have an opportunity to confront his accusers, and ***have*** the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, ***to compel the production of documents and other documentary evidence,*** and so far as practicable, conduct ***the*** [~~said~~] hearing within the Kentucky Rules of Civil Procedure. ***The board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefit of the officer or the chief at the request of the officer or the chief.*** Any officer who is not given a hearing within sixty (60) days of any charge [~~so~~] placed shall be reinstated in full.

The Committee Amendment No. 1 to **SB 188** is as follows:

On page 1, line 9, by inserting after "Procedure." the following: "***Upon a showing of proper need.***".

SB 199, AN ACT relating to local government investments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.480 is amended to read as follows:

(1) The governing body of a ***city*** [~~municipality~~], county, ***urban-county, charter county,*** school district (provided that its general procedure for action is approved by the State Board for Elementary and Secondary Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including [~~such~~] obligations subject to repurchase agreements, provided that delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. ***The*** [~~Such~~] investments may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in Kentucky;

(b) ***Obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:***

1. United States Treasury;

2. Export-Import Bank of the United States;

3. Farmers Home Administration;

4. Government National Mortgage Corporation; and

5. Merchant Marine bonds;

(c) Obligations of any corporation of the United States government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;

2. Federal Farm Credit Banks;

3. Bank for Cooperatives;

4. Federal Intermediate Credit Banks;

5. Federal Land Banks;

6. Federal Home Loan Banks;

7. Federal National Mortgage Association; and

8. Tennessee Valley Authority;

(d) Certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation or similar entity or which are collateralized, to the extent uninsured, by any obligations permitted by KRS 41.240(4);

(e) Uncollateralized certificates of deposit issued by any bank or savings and loan institution rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(f) Bankers' acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(g) Commercial paper rated in the highest category by a nationally recognized rating agency;

(h) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(i) Securities issued by a state or local government, or any instrumentality of agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency; and

[~~Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;~~

~~(c) Any savings and loan association insured by an agency of the government of the United States up to the amount so insured;~~

~~(d) Interest bearing deposits in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts, providing such bank shall pledge as security, obligations as permitted by KRS 41.240(4), having a current quoted market value at least equal to any uninsured deposits. No municipality, county, school district, other unit of local government, political subdivision, or county official shall make any investment which would jeopardize the tax exempt status of any outstanding obligation of such unit of local government; and~~]

(j)[~~(e)~~] Shares of mutual funds, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. ***All*** ~~[At least ninety percent (90%)]~~ of the securities in the mutual fund shall be eligible investments pursuant to this section.

(2) *The investment authority provided by subsection (1) of this section shall be subject to the following limitations:*

(a) The amount of money invested at any time by a local government or political subdivision in one (1) or more of the categories of investments authorized by subsections (1)(e), (f), (g), and (i) of this section shall not exceed twenty percent (20%) of the total amount of money invested by the local government; and

(b) No local government or political subdivision shall purchase any investment authorized by subsection (1) on a margin basis or through the use of any similar leveraging technique.

(3) The governing body of every local government or political subdivision that invests or reinvests money subject to its control or jurisdiction according to the provisions of subsection (1) of this section shall by January 1, 1995, adopt a written investment policy that shall govern the investment of funds by the local government or political subdivision. The written investment policy shall include, but shall not be limited to the following:

(a) A designation of the officer or officers of the local government or political subdivision who are authorized to invest and oversee the investment of funds;

(b) A list of the permitted types of investments;

(c) Procedures designed to secure the local government's or political subdivision's financial interest in the investments;

(d) Standards for written agreements pursuant to which investments are to be made;

(e) Procedures for monitoring, control, deposit, and retention of investments and collateral;

(f) Standards for the diversification of investments, including diversification with respect to the types of investments and firms with whom the local government or political subdivision transacts business;

(g) Standards for the qualification of investment agents which transact business with the local government, such as criteria covering creditworthiness, experience, capitalization, size, and any other factors that make a firm capable and qualified to transact business with the local government or political subdivision; and

(h) Requirements for periodic reporting to the governing body on the status of invested funds.

(4) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320, and 160.510, ***as*** ~~[in the investment instruments]~~ permitted by ~~[subsection (1) of]~~ this section.

(5)~~[(3)]~~ The provisions of this section are not intended to impair the power of a county official, ***city*** ~~[municipality]~~, county, ***urban-county, charter county,*** school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(6)~~[(4)]~~ The governing body or county official may delegate the investment authority provided by ~~[subsection (1) of]~~ this section to the treasurer or other financial officer ***or officers*** charged with custody of the funds of the local government, and ***the*** ~~[such]~~ officer ***or officers*** shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(7)~~[(5)]~~ All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(8)~~[(6)]~~ The state local finance officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to such county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request such assistance.

(9)~~[(7)]~~ (a) The state local finance officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by ~~[subsection (1) of]~~ this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested.

Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local finance officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local finance officer creates an investment pool, he shall establish an account in the Treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local finance officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)[~~(c) and~~] (d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(10)[~~(8)~~] (a) With the approval of the State Board for Elementary and Secondary Education, local boards of education, or such of them as may desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by [~~subsection (1) of~~] this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the State Board for Elementary and Secondary Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The State Board for Elementary and Secondary Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

SB 234, AN ACT relating to assistant county attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 69.300 is amended to read as follows:

The assistant county attorneys shall reside in the county in which the county attorney is elected ***or in a contiguous county*** and shall be attorneys licensed to practice in the Commonwealth***,*** and shall have the same powers and perform the same duties that county attorneys have and perform, except that they shall be under the direction and control of the county attorney.

The Committee Amendment No. 1 to **SB 234** is as follows:

On page 1, line 3, by inserting after "elected" the words:

"***, or within thirty (30) miles of the county line,***".

The Committee on Business Organizations and Professions reported **HB 163, HB 844, HB 898,** with Committee Substitute attached thereto, **SB 177** and **SB 201** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 163, AN ACT relating to transient merchants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

All advertisement promoting the sale of goods, wares, or merchandise by a transient merchant shall include the name and permanent address of the seller as required in the application for permit pursuant to KRS 365.665.

Section 2. KRS 365.655 is amended to read as follows:

The provisions of KRS 365.650 to 365.695 shall not apply to:

(1) Sales at wholesale to retail merchants by commercial selling agents in the usual course of business;

(2) Wholesale trade shows or conventions;

(3) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery ***to retail merchants for resale***;

(4) Participants in fairs and convention center activities when the participants' businesses are conducted primarily for amusement or entertainment;

(5) Any general sale, fair, auction, or bazaar sponsored by any religious, educational, public service, or charitable organization ***when all proceeds accrue to the benefit of the sponsoring organization***;

(6) Garage sales held on premises devoted to residential use;

(7) Sales of crafts or items made by hand and sold or offered for sale by the person making such crafts or handmade items;

(8) Sales of locally grown agricultural products;

(9) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of ***the*** [~~such~~] premises;

(10) Sheriffs, constables, or other public or court officers, or any other person [~~or persons~~] acting under the direction or authority of any court, state or federal, selling goods, wares, or merchandise in the course of their official duties;

(11) Flea market vendors who can demonstrate compliance with KRS 139.550;

(12) Professions and occupations licensed and regulated by the state when the activities are performed within the scope of their respective statutory and regulatory authority; and

(13) Temporary sales at another location by businesses with a permanent business location within the State of Kentucky.

HB 844, AN ACT relating to locksmiths.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Locksmith" means a person who legally renders services to open or assist to open locks for people who do not have a functional key in their immediate possession. "Locksmith" includes, but is not limited to, locksmiths, policemen, firemen, or any automobile club which offers this service.

(b) "Lock" means a device used to restrict access to any private or public domain which requires a key. A lock may be mechanical, electronic or other type device used to secure private residence, motor vehicles, storage places, places of business or other areas which usually are kept locked.

(c) "Key" means any device or code normally used to open locks.

(2) Any locksmith who renders service to open or assist to open locks for people who have no functional key in their immediate possession, shall obtain a positive identification of the person to whom the service is rendered. The locksmith shall keep on record the name and address of that person, the address of the service, and in case of a motor vehicle also the type of vehicle and its plate number, for a period of not less than six (6) months.

HB 898, AN ACT relating to the control of wagering.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon, subject to the following limitations:

(a) Only a thoroughbred host track may receive an interstate simulcast of thoroughbred horse races. A thoroughbred host track may receive an interstate simulcast from the first awarded day of its live meet through the last awarded day of the same live meet;

(b) A thoroughbred host track which receives an interstate simulcast shall offer that simulcast to all thoroughbred receiving tracks, all harness tracks in counties containing only one (1) track, and all simulcast facilities through the intertrack wagering system;

(c) A receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a thoroughbred host track on any day it receives an interstate simulcast from a thoroughbred host track;

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast;

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on that day unless all thoroughbred tracks conducting live racing on that day agree upon the interstate simulcast to be received and the division of the thoroughbred host tracks' commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest daily handle, based on the preceding year, shall determine the interstate simulcasts to be received on that day. For purposes of this paragraph, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle;

(f) In awarding dates, the commission shall award to each track which desires to conduct interstate wagering pursuant to the provision of this subsection during the next year, no less than ninety percent (90%) of the number of racing days awarded to the track in 1994 and no less than ninety percent (90%) of the number of races scheduled to be run by the track in 1993;

(g) Notwithstanding paragraph (f) of this subsection, the commission may award less than the number of days and races specified in paragraph (f) of this subsection, if written approval is obtained from either the Horsemen's Benevolent and Protective Association or the Kentucky Thoroughbred Association;

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted; and

(i) A thoroughbred host track may receive an interstate simulcast of no more than two (2) races which are of national or international significance on any day the track is running live races, if the interstate simulcast is combined as part of the track's live races. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (c) and (e) of this subsection.

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) Only a harness host track may receive an interstate simulcast of harness horse races. A harness host track may receive an interstate simulcast from the first awarded day of its live meet through the last awarded day of the same live meet;

(b) A harness host track which receives an interstate simulcast shall offer that simulcast to all thoroughbred receiving tracks, all harness tracks, and all simulcast facilities through the intertrack wagering system;

(c) A harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track;

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast;

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on that day unless all harness tracks conducting live racing on that day agree upon the interstate simulcast to be received and the division of the harness host tracks' commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest daily handle, based on the preceding year, shall determine the interstate simulcasts to be received on that day. For purposes of this paragraph, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle;

(f) In awarding dates, the commission shall award to each track which desires to conduct interstate wagering pursuant to the provision of this subsection during the next year, no less than ninety percent (90%) of the number of racing days awarded to the track in 1994 and no less than ninety percent (90%) of the number of races scheduled to be run by the track in 1993;

(g) Notwithstanding paragraph (f) of this subsection, the commission may award less than the number of days and races specified in paragraph (f) of this subsection, if written approval is obtained from the Kentucky Harness Horsemen's Association;

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted; and

(i) A harness host track may receive an interstate simulcast of no more than two (2) harness races which are of national or international significance on any day the track is running live races, if the interstate simulcast is combined as part of the track's live races. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (c) and (e)

of this subsection.

Section 2. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In counties containing more than one (1) track, intertrack wagering dates shall be awarded as follows:

(a) A receiving track of the same breed as the host track's breed shall have the right to receive, on an exclusive basis, sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990; and

(b) A receiving track of a different breed than the breed of the host track shall receive on an exclusive basis the remaining forty percent (40%) of the intertrack wagering dates not awarded by the commission under subsection (2)(a) of this section, and exclusive of days contained in subsection (4) of this section, if the receiving track was licensed to conduct racing of a different breed on or before January 1, 1990. Any unused intertrack wagering days or any intertrack wagering days not requested by and awarded to a receiving track of a different breed than the breed of the host track, shall be awarded to the receiving track of the same breed as the breed of the host track.

(3) Except in extraordinary circumstances, such as the need to accommodate a receiving track's sales activities or special events, intertrack wagering dates shall be awarded in weekly increments. The commission shall approve no more than nine (9) tracks for participation in intertrack wagering. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to one another or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to one another; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) [~~A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals. A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races with a purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals. A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. A track may also receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race. All interstate simulcasting shall be conducted in accordance with applicable federal laws.~~

~~(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS 138.510 and this chapter.~~

~~(7)~~] Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 3. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or conduct intertrack wagering. A receiving track may accept wagers through a telephone account wagering system. Wagers at a

receiving track, simulcast facility, or on telephone account wagering shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to ***Section 1 of this Act*** [~~subsection (5) of KRS 230.377~~]; however, common pools shall be encouraged.

(2) The commission of a receiving track, simulcast facility, or on telephone account wagering shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows: twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(4) The deduction for the backside improvement fund, as provided for in KRS 138.515(4) and the deduction for equine drug research provided for in KRS 230.265(3), shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission.

The Committee Substitute to **HB 898** is as follows:

HB 898, AN ACT relating to the control of wagering.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon, subject to the following limitations:

(a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners

and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs:

2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;

3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and

4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of

the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;

3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and

4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection (2). However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "interstate common wagering pool" means a pari-mutuel pool established in one (1) horse racing jurisdiction that is combined with comparable pari-mutuel pools from at least one (1) horse racing jurisdiction for the purpose of establishing payoff prices in the various jurisdictions.

(2) Interstate wagers at a receiving track may form an interstate common wagering pool with wagers at a track in another jurisdiction, and the receiving track may adopt the commission and breakage rates of the track at which the race is being run. The commission may also approve types of wagering, distribution of winnings, and rules of racing for interstate common wagering pools that are different from those that normally apply in Kentucky.

(3) Wagers placed on any races run at track in Kentucky may be combined with wagers placed at tracks in other jurisdictions to form an interstate common wagering pool located either within or outside Kentucky.

(4) A track's participation in an interstate common wagering pool does not cause that track to be considered to be doing business in any jurisdiction other than the jurisdiction where the track is physically located. Excise taxes and commission rates may not be imposed on any interstate common wagering pool other than on amounts actually wagered in Kentucky. The combination of pari-mutuel pools as provided in this section constitutes the communication of wagering information for purposes of calculating odds and payoffs only and does not constitute the transfer of wagers in interstate commerce.

Section 3. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The

commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In counties containing more than one (1) track, intertrack wagering dates shall be awarded as follows:

(a) A receiving track of the same breed as the host track's breed shall have the right to receive, on an exclusive basis, sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990; and

(b) A receiving track of a different breed than the breed of the host track shall receive on an exclusive basis the remaining forty percent (40%) of the intertrack wagering dates not awarded by the commission under subsection (2)(a) of this section, and exclusive of days contained in subsection (4) of this section, if the receiving track was licensed to conduct racing of a different breed on or before January 1, 1990. Any unused intertrack wagering days or any intertrack wagering days not requested by and awarded to a receiving track of a different breed than the breed of the host track, shall be awarded to the receiving track of the same breed as the breed of the host track.

(3) Except in extraordinary circumstances, such as the need to accommodate a receiving track's sales activities or special events, intertrack wagering dates shall be awarded in weekly increments. The commission shall approve no more than nine (9) tracks for participation in intertrack wagering. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to one another or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to one another; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) ***A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in Section 1 of this Act:***

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races ***(both final and elimination) having a final*** [~~with a~~] purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.

(d) A track may also receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcasts of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of Section 1 of this Act shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the

effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack ***or interstate*** wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of ***KRS Chapter 13A,*** KRS 138.510***,*** and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 4. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or conduct intertrack wagering. A receiving track may accept wagers through a telephone account wagering system. Wagers at a receiving track, simulcast facility, or on telephone account wagering shall form a common pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to ***Section 1 of this Act*** [~~subsection (5) of KRS 230.377~~]; however, common pools shall be encouraged.

(2) ***Except as provided in subsection (2) of Section 2 of this Act,*** the commission of a receiving track, simulcast facility, or on telephone account wagering shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows: twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(4) The deduction for the backside improvement fund, as provided for in KRS 138.515(4) and the deduction for equine drug research provided for in KRS 230.265(3), shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission.

Section 5. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track ***on live racing*** and shall not include money wagered***:***

(a) At a receiving track***;***[~~,~~]

(b) At a simulcast facility***;***[~~, or~~]

(c) On telephone account wagering***; or***

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by Sections 1 and 2 of this Act.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***

(a) All licensed tracks conducting telephone account wagering***;***

(b) All tracks [~~or~~] participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission***; and***

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax ***imposed in subsection (2) of this section*** shall be in the amount of***:***

(a) Three percent (3%) of all money wagered ***under subsection (2)(a) and (b) of this section*** [~~by these methods~~] during the fiscal year***; and***

(b) Five percent (5%) of all money wagered under subsection (2)(c) of this section.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in ***subsection (2) of this section*** [~~this subsection~~] and ***deposited as follows:***

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting***; or***

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5)[~~(3)~~] Two-tenths of one percent (0.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6)[~~(4)~~] One tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1)***,*** [~~and~~] (2)***, and (3)*** of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. [~~In no event shall~~] Funds allocated under this subsection ***shall not*** replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Higher Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Higher Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

SB 177, AN ACT relating to the Kentucky Board of Medical Licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the State Board of Medical Licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the State Board of Health. The offices of the board shall be maintained at such place as is designated by the board. The board shall consist of ***thirteen (13)*** [~~eleven (11)~~] members, including the commissioner of health services, the dean of the University of Kentucky College of Medicine, the dean of the University of Louisville School of Medicine and ***ten (10)*** [~~eight (8)~~] members appointed by the Governor. One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. ***Seven (7)*** [~~Six (6)~~] members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. ***Two (2) members*** [~~One (1) member~~] shall be ***citizens*** [~~a citizen~~] at large who ***are representatives*** [~~is a representative~~] of ***any*** [~~a~~] recognized consumer advocacy ***groups*** [~~group~~] with an interest in the delivery of health care and ***are*** [~~is~~] not associated with or financially interested in the practice or business regulated.

Section 2. KRS 311.555 is amended to read as follows:

It is the declared policy of the General Assembly of Kentucky that the practice of medicine and osteopathy should be regulated and controlled as provided in KRS 311.530 to 311.620 in order to prevent empiricism and to protect the health and safety of the public. Further, the General Assembly of Kentucky has created the board, as defined in KRS 311.530, to function as an independent board, the majority of whose members are licensed physicians, with the intent that such a peer group is best qualified to regulate, control and otherwise discipline the licensees who practice medicine and osteopathy within the Commonwealth of Kentucky. In furtherance of this intent, the judiciary of the Commonwealth of Kentucky, who may be caused to review the actions of the board, shall ***not interfere or enjoin the board's actions until all administrative remedies are exhausted, and*** modify, remand or otherwise disturb those actions only in the event ***that the action of the board***:

(1) [~~That the action of the board~~] Constitutes a clear abuse of its discretion;

(2) [~~That the action of the board~~] Is clearly beyond its legislative delegated authority; or

(3) [~~That the action of the board~~] Violated the procedure for disciplinary action as described in KRS 311.591.

Section 3. KRS 311.571 is amended to read as follows:

(1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read and write the English language;

(b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;

(d) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration and approved by the board;

(e) Has successfully completed, in a single sitting, an examination prescribed by the board;

(f) Has complied with the requirements of KRS 214.615(1); and

(g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read and write the English language;

(b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

(d) Has successfully completed, in a single sitting, an examination prescribed by the board;

(e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;

(f) Has satisfactorily completed at least three (3) full years of prescribed courses of postgraduate training approved by the board;

(g) Has complied with the requirements of KRS 214.615(1); and

(h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:

(a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

(b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and (h) of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;

(c) Has complied with the requirements of KRS 214.615(1); and

(d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.

(4) The board may grant an applicant a limited license-institutional practice for an unrenewable period of one (1) year if the applicant:

(a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e), and (h) of subsection (2) of this section;

(b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)(d) of this section;

(c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; and

(d) Has complied with the requirements of KRS 214.615(1).

(5) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:

(a) Has been endorsed in writing by the applicant's original licensing state as being currently licensed in good standing in that state; and

(b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.

(6) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.

(7) Notwithstanding any of the requirements for licensure established by subsections (1) to (6) of this section, the board may deny licensure to an applicant ***or the re-registrant of an inactive license*** without a prior hearing upon a finding that the

applicant ***or re-registrant*** has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice***. Orders denying licensure may be appealed pursuant to KRS 311.593***~~[, if upon request an applicant shall be accorded an opportunity to show cause why he should not be denied licensure]~~.

(8) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

Section 4. KRS 311.572 is amended to read as follows:

(1) The board may issue an order directing an applicant for a license or the holder of a license to show cause why the applicant should be granted a license or the licensee should not be disciplined, respectively, when:

(a) An applicant admits or is otherwise found to have committed an act which constitutes a violation of the provisions of this chapter; or

(b) A licensee admits ***or is otherwise found to have*** ~~[to having]~~ committed an act in violation of the provisions of this chapter in any document relating to the registration or reregistration of a license.

(2) The order shall be signed by an officer of the board and shall state those violations which the board believes to have been committed. The matter shall be assigned to a hearing panel and shall proceed in accordance with KRS 311.591. The burden of proof shall lie with the charged physician.

(3) The board shall not approve any application for licensure or application for reregistration of an inactive license until a final order on the matter has been issued.

Section 5. KRS 311.590 is amended to read as follows:

(1) No person shall make any statement or submit any document, paper or thing to the board, or to its secretary, or to any county clerk, relating in any manner to issuance, registration, suspension or revocation of any license or permit, knowing same to be false, forged or fraudulent.

(2) No person shall engage in ***dishonesty,*** fraud, deceit, collusion or conspiracy in connection with any examination***, hearings, or disciplinary proceedings*** conducted by the board.

(3) No person shall make or issue any false or counterfeit certificate that purports to have been issued by the board, or by its secretary, or forge the signature of any person thereon, or alter any such certificate that has been issued by the board or by its secretary.

Section 6. KRS 311.591 is amended to read as follows:

(1) The president of the board shall divide the membership of the board, excluding himself, into two (2) panels of ***six (6)*** ~~[five (5)]~~ members***,*** each ***panel to include one (1) consumer member***. Each panel shall have the power to act as an inquiry or a hearing panel. The president shall not be a member of either panel, but shall have the power to render the deciding vote whenever a tie vote is rendered by either panel.

(2) Grievances may be submitted by an individual (including board members), organization or entity. Each grievance shall be investigated as necessary and the executive director shall assign each grievance to an inquiry panel. All inquiry panels and the executive director shall have the power to issue investigatory subpoenas for the appearance of any person or production of any record, document or other item within the jurisdiction of the Commonwealth. The panel or executive director may seek enforcement of investigatory subpoenas ***and search warrants*** in the courts of the Commonwealth as may be necessary.

(3) Upon completion of its inquiry, the inquiry panel shall make a finding that:

(a) The grievance is without merit and no further action is necessary;

(b) The grievance discloses an instance of misconduct which does not warrant the issuance of a complaint; in such instances, the panel may admonish the physician for his misconduct; or

(c) The grievance discloses one (1) or more violations of the provisions of this chapter which warrant the issuance of a complaint; in such instances, the panel shall cause a complaint to be prepared, signed by the presiding officer, which shall contain sufficient information to apprise the named physician of the general nature of the charges.

(4) The inquiry panel shall cause a complaint to be served on the charged physician by personal delivery or by certified mail to the physician's last address of which the board has record. The physician shall submit a response within thirty (30) days after service. Failure to submit a timely response or willful avoidance of service may be taken by the board as an admission of the charges.

(5) Upon the issuance of the complaint, the executive director shall assign the matter for hearing and decision by a hearing panel. No member who served on the inquiry panel may also serve as a member of the hearing panel. The hearing panel or the hearing officer on behalf of the panel shall preside over all proceedings pursuant to the issuance of a complaint. All board members, the executive director and hearing officer shall have the authority to administer oaths and issue summonses, subpoenas and other process. During or after any proceeding, the board or the hearing officer may petition the courts of the Commonwealth to punish as contempt the failure of a person or entity to obey a subpoena or other process, or contemptuous conduct directed to the board or the hearing officer.

(6) All proceedings pursuant to the issuance of a complaint shall be in accordance with the rules and regulations established by the board to promote the fair, orderly and efficient conduct of the proceedings. The board may establish regulations regarding the informal disposition of any complaint and such disposition may be made at any stage of the proceeding. ***Discovery shall be made pursuant to the Kentucky Rules of Civil Procedure.***

(7) Upon completion of the hearing process, the hearing officer shall prepare proposed findings of fact and conclusions of law ***but shall not make a recommended disposition***. The parties shall have the opportunity to file objections or other comments regarding the proposed findings and conclusions. The hearing panel may adopt the proposed findings and conclusions, in whole or in part, or may make its own in addition to or substitution of the proposed ones. ***The hearing panel may remand the findings of fact and conclusions of law back to the hearing officer for further findings consistent with the board's order.*** If a hearing officer is not used or the hearing officer fails to prepare findings and conclusions, the hearing panel shall prepare its own findings and conclusions and may then issue its final order.

(8) Upon completion of the disciplinary proceedings, the hearing panel shall issue an order that:

(a) Dismisses the complaint upon a conclusion that the provisions of this chapter have not been violated;

(b) Finds a violation of the provisions of this chapter, but does not impose discipline because the panel does not believe discipline to be necessary under the circumstances; or

(c) Imposes discipline upon the licensee; in such instances, the panel may revoke, suspend, restrict, deny, or limit a license, or may reprimand or place a licensee on probation under terms the panel may establish to protect the licensee, his patients or the general public.

The hearing panel may impose a fine whenever it finds that a violation of this chapter has occurred. The hearing panel's order shall be considered the final order of the board regarding the matter.

(9) Regardless of the restrictions on public disclosure of information established in subsection (10) of this section, the board may order information derived from any investigation or inquiry be released to the physician licensure authority of another state or to any health care facility licensed and regulated by the Commonwealth of Kentucky upon a showing that the information is necessary to determine the propriety of a physician practicing in a particular state or facility.

(10) The presiding officer at any proceeding held pursuant to a complaint or show cause order shall take whatever measures are necessary to protect the privacy interests of individuals other than the charged physician upon a showing that evidence is to be introduced, the public disclosure of which would constitute a clear invasion of personal privacy. It is the general policy of the Commonwealth that administrative proceedings should be open to the public. Therefore, in applying this subsection the presiding officer shall balance the competing interests and employ the least restrictive measures available to protect the privacy interests involved.

Section 7. KRS 311.592 is amended to read as follows:

(1) At any time when an inquiry panel has probable cause to believe that a physician has violated the terms of an order placing him on probation, or a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public, the inquiry panel may issue an order suspending, limiting or restricting the physician's license. The order shall be signed by a member of the panel and shall state the grounds upon which the panel is relying. The order shall be served on the named physician by certified mail or by personal delivery, but shall be effective when the physician receives actual notice of the order.

(2) An order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the hearing on the order or the order shall become void.

(3) Upon request of the named physician, the inquiry panel shall schedule a hearing in regard to the order within ***sixty (60)*** [~~fifteen (15)~~] days of the request. The hearing may be held before the panel or before a hearing officer appointed by the panel. Within five (5) days after conclusion of the hearing, the panel or hearing officer shall issue an order affirming or retracting the original order. The original order shall be affirmed if substantial evidence is produced that supports the panel's finding that a probation has been violated or ***that the inquiry panel had probable cause to believe that*** a physician's practice constitutes a danger.

(4) The order issued pursuant to a hearing as described in subsection (3) of this section shall be appealable as described in KRS 311.593. If the order affirms the inquiry panel's original order, the named physician may petition the panel to modify the terms of the suspension or restriction and the panel may make such modifications as it deems appropriate. An order of temporary suspension, restriction or limitation shall not be maintained after a final order is served on the charged physician pursuant to the proceeding on the complaint. ***An appeal pursuant to this section shall not prejudice the board from proceeding upon the complaint.***

Section 8. KRS 311.593 is amended to read as follows:

(1) Except for those orders denying an application ***or re-registration*** for licensure or temporarily suspending, limiting or restricting a physician's license, all orders of the board affecting a physician's license shall become effective thirty (30) days after notice is given to the licensee unless otherwise agreed; however, the board may provide that an order be effective immediately when, in the board's opinion, based upon sufficient reasonable cause, the health, welfare and safety

of the physician's patients or the general public would be endangered by delay.

(2) Any physician who is aggrieved by a final order of the board denying a license or rendering disciplinary action against a licensee may, within thirty (30) days after receiving notice of the order, seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located, naming the board as respondent. The petition shall set forth with particularity grounds upon which the petitioner relies and the relief which the petitioner seeks. ***The relief sought shall not include attorney's fees or any form of monetary liability to be imposed upon the board.*** The petitioner shall cause the petition to be served by service of summons and a copy of the petition on the board's executive director or general counsel.

(3) Upon service of summons and the petition, the executive director shall, within thirty (30) days, file a certified transcript of the record, containing all testimony, pleadings, exhibits and orders, including the order to be reviewed. The court may enlarge this time or may order all or portions of the record to be produced without delay as the court deems appropriate.

(4) ***The court shall not award injunctive relief against the board and shall not review any petition*** ~~[If the petition seeks immediate injunctive relief, the court shall not award such relief]~~ without providing the board with the reasonable opportunity to be heard. A final order of the board affecting a physician's license shall remain in effect unless and until the court enters an order reversing ~~[or enjoining]~~ the board's order.

(5) Within twenty (20) days of receiving proper service of the summons and petition seeking judicial review of an order of the board, the board shall file a response generally setting forth its position and may make all motions it deems appropriate. The court shall thereafter rule upon all motions and shall establish a schedule for the filing of briefs and the hearing of oral argument, if oral argument is requested by either party.

(6) Upon consideration of the record, the briefs and oral argument, the court shall enter judgment either upholding or reversing the board's order. No new evidence shall be introduced in the Circuit Court. In the event the board's order is reversed, the court shall, upon request of the board, remand the case to the board for further proceedings.

(7) Any party aggrieved by the final judgment, order or decree of the Circuit Court relative to an order of the board ~~[or any party aggrieved by an order of the Circuit Court awarding or denying preliminary injunctive relief]~~ may appeal to the Court of Appeals of Kentucky and thereafter to the Supreme Court of Kentucky as set forth by law.

Section 9. KRS 311.595 is amended to read as follows:

If the power has not been transferred by statute to some other board, commission or agency of this state, the board may deny an application ***or re-registration*** for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma or other thing, in connection with an application for a license or permit.

(2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license.

(3) Committed, procured or aided in the procurement of an unlawful abortion.

(4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor, under the laws.

(5) Become addicted to a controlled substance.

(6) Become a chronic or persistent alcoholic.

(7) Developed a physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public.

(8) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof.

(9) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

(10) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted or abetted the unlawful practice of medicine or osteopathy or any other healing art.

(11) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board.

(12) Violated any ***agreed order, letter of agreement,*** order of suspension, or the terms or conditions of any order of probation, issued by the board.

(13) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar or different name.

(14) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured.

(15) Willfully violated a confidential communication.

(16) Had his license to practice medicine or osteopathy in any other state, territory or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. ***This subsection shall not require re-litigation of the disciplinary action.***

(17) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund.

(18) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each.

(19) Been removed, suspended, ~~[or]~~ expelled***, or disciplined*** by any professional medical association or society when the action was based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. ***This subsection shall not require re-litigation of the disciplinary action.***

(20) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, resignation of privileges under pressure or investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311. ***This subsection shall not require re-litigation of the disciplinary action.***

Section 10. KRS 311.597 is amended to read as follows:

As used in KRS 311.595(8), "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" shall include, but not be limited to the following acts by a licensee:

(1) Prescribes or dispenses any ***medication*** ~~["controlled substance" as defined in KRS 218A.010]~~:

  (a) With the intent or knowledge that a ***medication*** ~~[controlled substance]~~ will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose,

  (b) With the intent to evade any law with respect to sale, use or disposition of ***the medication***~~[such controlled substance(s)]~~,

  (c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of controlled substance(s) is occurring, or may result from such a practice, or

  (d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards.

(2) Issues***,*** ~~[or]~~ publishes ***or makes oral or written***~~[in any manner whatsoever]~~, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

  (a) Any representation in which the licensee claims that he can cure or treat ~~[manifestly incurable]~~ diseases, ailments, or infirmities by any method, procedure, treatment, or medicine which the licensee knows or has reason to know has little or no therapeutic value;

  (b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments, or infirmities under a system or school of practice:

    1. Other than that for which he holds a certificate or license granted by the board, or

    2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or

    3. Under a school or system which he professes to be self-taught.

For purposes of this subsection, actual injury to a patient need not be established.

(3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant

circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice.

(4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including, but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association. For the purposes of this subsection, actual injury to a patient need not be established.

(5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in KRS 311.606.

Section 11. KRS 311.603 is amended to read as follows:

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against ***the board,*** any current or former member, officer, administrator, staff member, committee member, representative, agent, ***consultant,*** or employee of the board, either as a part of the board's operation or as an individual, as the result of any act, omission, proceeding, conduct, or decision related to his official duties undertaken or performed within the scope of the function of the board[~~, except where actual malice is shown or willful misconduct is involved~~].

Section 12. KRS 311.605 is amended to read as follows:

(1) Every county board of health shall, at such times as are fixed by the board, report to the board the name and address of each person believed to be engaged in the practice of medicine or osteopathy, as defined by KRS 311.550, within their respective jurisdictions. The county boards of health shall also report to the board and to the county and Commonwealth's attorneys of their respective counties all violations of KRS 311.550 to 311.620 and shall assist in the enforcement thereof.

(2) For the purpose of enforcing the provisions of KRS 311.550 to 311.620, agents of the board shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, ***including but not limited to psychiatric or non-psychiatric records,*** to interrogate all persons, and to require the production of books, papers, documents or other evidence. The term "premises" as used in this subsection shall include physician offices ***and all***[~~,~~] pharmacies and [~~all~~] health care facilities licensed or regulated by the Commonwealth. Agents of the board may only require pharmacies to produce prescription records and health care facilities to produce records of patients or physician peer reviews. Such inspection or seizure of peer review records shall not affect the confidential nature of those records as provided in KRS 311.377, and the board shall maintain such peer review records so as to protect the confidentiality thereof.

(3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of KRS 311.550 to 311.620, regardless of whether the defendant has been convicted for violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 13. KRS 453.260 is amended to read as follows:

(1) In addition to any costs which are awarded as prescribed by statute, a court shall award costs to any party which prevails by a final adjudication on the merits in any of the following:

(a) A civil action brought by the Commonwealth against the party; ***and***

(b) A civil action brought by the party against the Commonwealth to challenge the assessment or collection of taxes[~~; and~~

~~(c) A court proceeding to review an administrative review board decision, where the original administrative action was brought by the Commonwealth against the party~~].

(2) The court in its discretion may deny the award provided for in this section, or may reduce the award, if it finds that:

(a) During the course of the proceeding the prevailing party unduly and unreasonably protracted the final resolution of the matter;

(b) The reason that the party other than the Commonwealth has prevailed is an intervening change in the applicable statutes, regulations or case law;

(c) The prevailing party refused an offer of civil settlement which was at least as favorable to the party as the relief ultimately granted; or

(d) The position of the Commonwealth was substantially justified or a special circumstance would make an award unjust provided, however, that the burden of proof of substantial justification or special circumstance shall rest with the Commonwealth.

(3) A party may apply pursuant to the applicable Rules of Civil Procedure for an award of attorney fees and other expenses authorized under this section and shall include as part of the application evidence of the party's eligibility for the award and the amount sought, including an itemized and attested statement from the attorneys and experts stating the actual time expended in representing the party and the rate at which the fees were computed. The party shall also allege in such application that the Commonwealth acted without substantial justification.

(4) The court shall base any award of fees as provided in this section on prevailing market rates for the kind and quality of services furnished, except that:

(a) An expert is not eligible for compensation at a rate in excess of the prevailing rate of compensation for similar experts paid by the Commonwealth;

(b) The award of attorney fees may not exceed the amount which the prevailing party has paid or has agreed to pay the attorney or a maximum amount of forty dollars ($40) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee;

(c) No award shall be greater than ten thousand dollars ($10,000) to each party except that no award shall be made to any party who voluntarily intervenes in any such action.

(5) This section does not:

(a) Apply to an action arising from a proceeding before the Commonwealth in which the role of the Commonwealth was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent, or to adjudicate a dispute or issue between private parties or to establish or fix a rate. As used in this subsection, monetary benefit or its equivalent shall not include a license, permit, charter or similar instrument that the Commonwealth may require to engage in a business, profession or similar activity;

(b) Apply to proceedings brought by the Commonwealth pursuant to KRS Chapters 218A, 431 to 439, and 500 to 534;

(c) Apply to proceedings involving eminent domain, foreclosure, collection of judgment debts or proceedings in which the Commonwealth is a nominal party;

(d) Personally obligate any officer or employee of the Commonwealth for the payment of an award entered under this section; and

(e) Apply to proceedings brought pursuant to KRS Chapters 209, 342 and 625.

SECTION 14. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

The board may establish an impaired physicians committee, to be designated as the Kentucky Committee on Impaired Physicians, to promote the early identification, intervention, treatment, and rehabilitation of physicians who may be impaired by reason of illness, alcohol or drug abuse, or as a result of any physical or mental condition.

SECTION 15. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

The board may enter into a contractual agreement with a nonprofit corporation or a medical professional association for the purpose of creating, supporting, and maintaining a committee to be designated as the Kentucky Committee on Impaired Physicians. The board may promulgate administrative regulations subject to the provisions of KRS Chapter 13A to effectuate and implement any committee formed pursuant to this section. The board may expend any funds it deems necessary to adequately provide for operational expenses of any committee formed pursuant to this section.

SECTION 16. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

Any member of the Kentucky Committee on Impaired Physicians, as well as any administrator, staff member, consultant, agent or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

SECTION 17. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the Kentucky Committee on Impaired Physicians, as well as all communications to or from the committee, and any findings, conclusions, interventions, treatment or rehabilitation, or other proceedings of the committee which in any way pertain or refer to a physician who may be, or who is actually, impaired shall be privileged and confidential.

(2) All records and proceedings of the committee which pertain or refer to a physician who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records nor shall they be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (3) of this section.

(3) The committee may disclose information relative to an impaired physician only:

(a) When it is essential to disclose such information to further the intervention, treatment or rehabilitation needs of the impaired physician, and then only to those persons or organizations with a need to know;

(b) When its release is authorized in writing by the impaired physician; or

(c) When the committee is required to make a report to the board.

Section 18. The following KRS section is repealed:

311.541 Liability insurance for board members.

SB 201, AN ACT relating to real estate appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.050 is amended to read as follows:

The board may refuse issuance or renewal of a certificate or license [~~for cause~~], ***or may*** fine up to five hundred dollars ($500), ***reprimand,*** suspend, ***probate,*** [~~or~~] revoke***, or any combination thereof,*** a certificate or license ***for any of the following reasons*** [~~at any time, when the applicant or certificate or license holder, in performing or attempting to perform an appraisal, is deemed guilty of~~]:

(1) Procuring or attempting to procure a certificate or license by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;

(2) Refusing to provide complete information in response to a question in an application to the board or failing to meet the minimum qualifications established by the board;

(3) Being convicted of any felony, or of a misdemeanor ***that may result in a sentence which includes or requires incarceration*** [~~related to real estate appraising~~];

(4) Committing an act involving dishonesty, fraud, or misrepresentation;

(5) [~~Willfully disregarding or~~] Violating any of the provisions of KRS 324A.010 to 324A.090***,*** [~~or~~] the administrative regulations of the board***, or any lawful order of the board***;

(6) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;

(7) Committing any other conduct [~~which is related to dealings as an appraiser and~~] which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, ***or*** dishonesty[~~, or any unlawful act~~];

(8) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9) [~~Repeatedly~~] Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal; or

(10) Failing to observe one (1) or more of the Standards of Professional Appraisal Practice established by the board.

The Committee on Appropriations and Revenue reported **HB 48**, with Committee Amendment attached thereto, **HB 98**, with Committee Substitute and Committee Amendment attached thereto, **HB 283**, with Committee Substitute and Committee Amendment attached thereto, **HB 306**, with Committee Amendments attached thereto, **HB 402**, with Committee Substitute attached thereto, **HB 408**, with Committee Amendments attached thereto, **HB 433**, with Committee Amendments attached thereto, **HB 439**, with Committee Substitute and Committee Amendment attached thereto, **HB 443**, with Committee Amendment attached thereto, **HB 503, HB 517**, with Committee Amendment attached thereto, **HB 559**, with Committee Amendment attached thereto, , **HB 605**, with Committee Amendment attached thereto, **HB 626**, with Committee Substitute and Committee Amendment attached thereto, and **HB 683**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 98** is as follows:

HB 98, AN ACT relating to energy efficiency in government buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act unless the context clearly indicates otherwise:

(1) "Aggregate simple payback period" means the simple payback period of a set of energy efficiency measures taken together for a building;

(2) "Building" means all contiguous land, structures, appurtenances, and improvements that use energy;

(3) "Conditioned building" means a building using energy for heating or cooling;

(4) "Energy audit" means examination of a building's energy-using systems, energy consumption and costs, occupancy patterns, and operation and maintenance procedures;

(5) "Energy efficiency measure" means any construction, improvement, repair, alteration, or betterment of a building that is intended to reduce energy costs; or any equipment, fixture, or furnishing to be added to or used in a building that will be a cost-effective energy-related project that is intended to reduce energy costs;

(6) "Energy performance contract" means an agreement for the provision of energy services or equipment, including energy conservation-enhancing projects and alternate energy technologies for state government buildings, in which a person agrees to finance, design, construct, install, maintain, operate, or manage energy systems or equipment to improve energy efficiency of, or produce energy in connection with, a state government building in exchange for a portion of the energy cost savings or specified revenues based on estimated or measured energy cost savings;

(7) "Engineering analysis" means a detailed cost-benefit analysis of energy efficiency investments including a review of potential cost savings through operation and maintenance changes;

(8) "Life-cycle energy cost analysis" means a method for estimating the total cost of an energy-using component over its useful life, including cost factors such as purchase price, energy use, maintenance, interest, and inflation;

(9) "Low cost/no cost energy efficiency measures" means those energy efficiency measures, usually involving operation and maintenance practices, that can be accomplished by existing personnel within existing operating budgets;

(10) "Shared savings contract" means an energy performance contract; and

(11) "Simple payback period" means the number of years it takes to pay back, from estimated energy savings, the initial cost of an energy efficiency investment, with the simple payback period equal to the initial cost divided by the annual energy savings.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

It shall be the policy of the Commonwealth to maximize the use of energy efficiency measures in the construction, renovation, and maintenance of buildings owned or leased by the Commonwealth. In furtherance of these policies, the Finance and Administration Cabinet shall administer an energy efficiency program, to be known as the Energy Efficiency Program for State Government Buildings.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy efficiency measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for state-owned buildings.

(2) An engineering analysis may be performed for state-owned buildings. Any analysis conducted shall assess the energy efficiency of each state-owned building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who shall be employed pursuant to KRS Chapter 45A.

(3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building which have an aggregate simple payback period of five (5) years or less shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy efficiency measures for a building may be utilized for monitoring the results.

(4) The Finance and Administration Cabinet shall prioritize the projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.

(5) If general fund appropriations are unavailable, energy efficiency measures for a state-owned building may be financed by other means. These other means include, but are not limited to, energy performance contracts and shared savings contracts. These energy efficiency measures shall not be limited to those which have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy efficiency measures shall remain with the Commonwealth. Energy cost savings may be used to repay the cost of the other means used to finance energy efficiency measures, with any remaining savings to be deposited in the state agency account. All energy cost savings estimated under an energy performance contract or shared savings contract shall be guaranteed to the Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

There is established an advisory committee on energy efficiency whose purpose shall be to advise the Finance and Administration Cabinet on the priority of various energy efficiency proposals, program operations, and any other matters related to energy efficiency. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee shall chair the advisory committee. The other members of the committee shall be the agency head or his designee of the six (6) noncollege and nonuniversity state agencies which have the most total square feet of state-owned building space, a representative of the Council on Higher Education to represent the state colleges and universities, and the commissioner of the Department for Facilities Management.

SECTION 5. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall institute an energy audit training program to identify energy saving techniques for state-owned building maintenance staff. Additional programs shall be developed to educate state employees and other building occupants on energy awareness and practices to reduce energy use in state-owned buildings.

SECTION 6. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall require persons submitting bids or plans for state-owned buildings to be constructed or substantially renovated after the effective date of this Act to include within those bids or plans life-cycle energy cost analyses. The cabinet shall consider those life-cycle cost analyses when evaluating competing bids or plans.

SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Any building which the Finance and Administration Cabinet considers for leasing or purchase shall be evaluated for cost-effective energy use and energy efficiency. This evaluation shall be considered in choosing between competing leases or building purchases. The cabinet shall consider the energy costs of operating a building to ensure the selection of a cost-effective lease, and the cabinet shall compare life-cycle energy cost analyses for competing leases.

(2) A lease may be structured so that both the lessor and the state agency as lessee may share energy cost savings that can be accomplished by energy-efficient lease arrangements. The lease may incorporate financial incentives to make energy efficiency improvements that are cost effective in reducing the operating cost of the building. The lease may provide for the state agency to make lease payments which may be used to help fund the costs of energy efficiency measures in the building, if the costs are amortized and returned to the state agency over a period of years not to exceed the useful life of the energy efficiency measures. Thereafter, the state agency shall be entitled to a reduction in the lease amount based on any continued savings resulting from the energy efficiency measures. The amount of reduction shall be negotiated between the lessor and the state agency.

SECTION 8. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Any state agency is authorized to participate as a state partner with the United States Environmental Protection Agency in its "Green Lights Program" or other similar programs.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

It shall be the policy of the Commonwealth to encourage local government agencies to incorporate cost-effective energy efficiency measures into their buildings to the greatest extent possible.

SECTION 10. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) An energy efficiency revolving loan fund is established in the State Treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund, and all moneys in the fund shall be dedicated to providing low interest loans to governmental agencies to assist them in using energy efficiency measures in their infrastructure projects.

(3) Repayment of the loan, with interest, shall be made to the revolving loan fund from energy cost savings realized by the governmental agency at a rate set in the assistance agreement.

(4) The revolving loan fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for its stated purpose.

(5) The criteria for approval of loans for energy efficiency measures in infrastructure projects shall be established in administrative regulations promulgated by the Natural Resources Cabinet, and shall be modeled after any applicable criteria established for the Energy Efficiency Program for State Government Buildings managed by the Finance and Administration Cabinet and the Institutional Energy Efficiency Program managed by the Natural Resources Cabinet.

(6) The authority may enter into any necessary agreement with federal or state agencies or persons to carry out the provisions of this section.

Section 11. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.

(2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.

(5) "Authority revenues" means the totality of all:

  (a) Service charges;

  (b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111 and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement; and

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.

(7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.

(8) "Construction" means and includes, but is not limited to:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure projects; and

(c) The inspection and supervision of the construction of infrastructure projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure projects.

(9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the natural resources cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.

(11) "Federal act" means the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(12) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(13) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multimunicipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.

(14) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.

(15) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority and, if required, by the Natural Resources Cabinet, Public Service Commission, or other agency; solid waste management facilities; dams; storm water control and treatment systems; solid waste handling and disposal facilities; gas or electric utility; ***energy efficiency measures;*** or any other public utility or public service project which the authority finds would enhance economic development opportunities in a governmental agency.

(16) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(17) "Interim financing agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance, and delivery of long-term debt obligations to effect assistance to said governmental agency.

(18) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(19) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(20) "Natural resources cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(21) "Obligation of a governmental agency" means a revenue bond issued by a governmental agency under KRS 58.010 et seq.

(22) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(23) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(24) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the natural resources cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the Department of Local Government has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund.

(25) "Project" or "solid waste project" means construction, renovation or acquisition of a solid waste facility which shall be publicly owned.

(26) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.

(27) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet.

(28) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(29) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.

(30) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(31) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).

(32) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the

purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.

(33) "State" means the Commonwealth of Kentucky.

(34) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(35) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or pursuant to the standards set forth in KRS 224A.120.

(36) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

(37) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(38) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(39) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground waters.

(40) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

Section 12. Sections 1 to 10 of this Act are repealed effective July 30, 1998.

The Committee Amendment No. 1 to the Committee Substitute to **HB 283** is as follows:

On page 4, line 22, by deleting "$446,000 for the 1994-95 fiscal year, and $406,000" and inserting in lieu thereof "$50,000".

The Committee Amendment No. 2 to **HB 306** is as follows:

On page 1, lines 10 and 11, by deleting all brackets, strikethroughs, and underlined language; and

on page 1, line 10, by inserting "***fourth***" after the first use of "the" and by bracketing and striking through "fifth".

The Committee Amendment No. 2 to **HB 408** is as follows:

On page 2, line 13, by deleting "***guarantee financial assistance for coordinating and providing***" and inserting in lieu thereof the following: "***coordinate and provide***";

On page 5, line 18, after "***System***" by inserting the following: "***to provide services***";

On page 13, line 10, at the beginning of the line, by deleting "***An***" and by inserting in lieu thereof the following: "***Within the limitations of any available funding and subject to any appropriations related thereto, an***";

And also on page 13, line 10, after "***disability***", by inserting the following: "***who is being served by the Kentucky Early Intervention System***".

The Committee Amendment No. 2 to **HB 433** is as follows:

On page 1, line 10, by deleting "***of twenty-five dollars ($25)***" and by substituting therefor:

"***of twenty-two dollars ($22)***"; and

on page 1, line 13, by deleting all the underlined language; and
on page 1, by deleting lines 14 through 19.

The Committee Substitute to **HB 439** is as follows:

HB 439, AN ACT relating to a seismic monitoring network and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

It is a finding of the General Assembly that Kentucky is located in an active seismic zone and the possibility of occurrence of a major earthquake in Kentucky is significant. The New Madrid earthquakes of 1811-1812 were some of the most severe earthquakes recorded in the history of the United States. The earthquakes caused damage as far east as Cincinnati, Ohio, and Maysville, Kentucky, and ground subsidence along the Kentucky-Tennessee border that resulted in the formation of Reelfoot Lake. Thousands of earthquakes have been recorded in Kentucky, from the New Madrid seismic zone in the western tip of the state to Greenup, Bell, and other counties in the east. It is imperative that the people of the Commonwealth of Kentucky be provided with the information needed to plan for a major earthquake, including the information for improved building designs that will assist in the construction of buildings such as schools, hospitals, police and fire stations, college dormitories, and nursing homes, so that they will withstand a major earthquake. The same type of information is also needed to help protect bridges and roadways, water supplies, airports, and energy and food supplies by implementing needed policies and procedures. Current data indicate that an earthquake of a magnitude similar to the four great ones that occurred in the winter of 1811-1812 in the New Madrid seismic zone would close most of the major highways west of Louisville, including those across the Ohio and Mississippi Rivers. Major natural gas transmission lines would also be in jeopardy. Data from the statewide seismic monitoring network would provide the tools needed to prepare for and mitigate the effects of a major earthquake in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Geological Survey shall establish a program to initiate and develop a long-term seismic monitoring network for the purpose of characterizing seismic activity in and adjacent to the Commonwealth of Kentucky to protect the citizens of the state in event of a catastrophic earthquake.

(2) The program shall include the installation and maintenance of a statewide seismic monitoring network and provide for long-term data collection to determine the nature of earthquakes throughout the state. The Kentucky Geological Survey shall utilize the data to support state efforts to develop models of seismic zones and to determine actions to be taken to protect the welfare of Kentucky's citizens from a catastrophic earthquake.

(3) The Kentucky Geological Survey shall enter data from the seismic network into a seismic data base which will be readily available to the public, government agencies, industry, and other entities that need and request access. The analyzed data shall also be made available in the forms of maps, seismic records, bulletins, and reports.

(4) The Kentucky Geological Survey shall solicit information from state and local agencies, industry, universities, and the public to assist in determining priority areas to be covered by the network as it is developed.

(5) The Kentucky Geological Survey, through the University of Kentucky, shall annually provide to the Governor or his designated representative a summary of the data collected by the seismic monitoring network and an analysis of the activities associated with the network.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) There is established a technical advisory board whose purpose shall be to provide assistance to the Kentucky Geological Survey in the development and maintenance of the seismic monitoring network.

(2) The board shall consist of the following members:

- ***(a) The executive director of the Kentucky Division of Disaster and Emergency Services or designee;***
- ***(b) A designee from the Governor's Earthquake Hazards and Safety Technical Advisory Panel;***
- ***(c) The commissioner of the Department of Housing, Buildings, and Construction or designee;***
- ***(d) The commissioner of the Kentucky Department of Highways or designee;***
- ***(e) The commissioner of the Kentucky Department for Natural Resources or designee;***
- ***(f) A designee of the Kentucky Transportation Center;***
- ***(g) A registered professional engineer appointed by the Governor, from two (2) persons nominated by the Kentucky Society of Professional Engineers;***
- ***(h) A registered professional geologist appointed by the Governor, from two (2) persons nominated by the Kentucky Board of Registration for Professional Geologists;***
- ***(i) A representative of the public at large appointed by the Governor; and***

(i) The director of the Kentucky Geological Survey or designee.

The executive director of the Kentucky Division of Disaster and Emergency Services or designee shall act as chairman of the technical advisory board. For members identified in paragraphs (g), (h), and (i), appointments shall be for three (3) year terms and members may be reappointed.

The Committee Title Amendment to **HB 439** is as follows:

By amending the title to read as follows:
"AN ACT relating to seismic monitoring network."

The Committee Amendment No. 1 to the Committee Substitute to **HB 626** is as follows:

On page 1, line 11, to delete "*to operate until June 30, 1997*"; and
On page 2, line 9, to delete "*Prior to June 30, 1997, if*" and to insert in lieu thereof "If"; and
On page 5, line 6, to delete "*to operate until June 30, 1997*".

The Committee Amendment No. 1 to **HB 683** is as follows:

On page 3, by deleting lines 1 to 3 in their entirety.

The Committee Title Amendment to **HB 683** is as follows:

Amend the title to read as follows:
"AN ACT relating to oil and gas production reporting."

The Committee on Appropriations and Revenue reported **HB 662**, with Committee Substitute attached thereto, **HB 832**, with Committee Amendment attached thereto, and **HB 888**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 662, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.115 is amended to read as follows:

(1) "Corporation" as used in KRS 136.120 through 136.180 means any corporation, company, association, partnership, or person performing any public service.

(2) "Operating property" as used in KRS 136.120 through 136.180 means both the operating tangible property and the franchise, and the payment of taxes on the assessment of operating property shall be deemed the payment of taxes on the operating tangible property and the franchise. *"Operating property" does not include a license or permit issued by the Federal Communications Commission to a cellular, cellular telephone, radio relay, personal communications system, or personal communications service company.*

The Committee Substitute to **HB 662** is as follows:

HB 662, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Licenses or permits issued by the Federal Communications Commission to, and the franchises of, cellular, cellular telephone, radio relay, specialized mobile radio, personal communications system, personal communications company, and other wireless service providers shall be subject to the annual ad valorem tax for state purposes under KRS 132.020(2).

(2) The licenses, permits, and franchises specified in subsection (1) of this section do not constitute "operating property" within the meaning of KRS 136.115(2).

(3) This section shall expire January 1, 1996, and shall only apply for taxable periods beginning prior to that date and after December 31, 1993.

HB 832, AN ACT relating to the Kentucky River Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 151.700 TO 151.730 IS CREATED TO READ AS FOLLOWS:

(1) The rate of the water use fees collected by the authority shall be set for each year of the biennium based upon a total amount of funds necessary to carry out only those functions, projects, and expenses authorized by the General Assembly in the authority's biennial budget.

(2) Within thirty (30) days following enactment of the executive budget, the authority shall certify to the Finance and Administration Cabinet the total amount of water use reported for the preceding calendar year by users subject to the water use fees. At least ten (10) days prior to the effective date of the authority's budget, the Finance and Administration Cabinet shall establish a rate for each water use fee based upon an amount of water use projected for each year of the biennium from the amount reported for the preceding year calculated to generate the amount of funds necessary to carry out the functions, projects, and expenses which have been authorized by the General Assembly. The rate shall be an amount for each one thousand (1,000) gallons of water use and shall be effective for at least one (1) year.

(3) The authority shall define by administrative regulation those uses of the Kentucky River or the waters of the Kentucky River basin subject to a water use fee. Water use fees shall not apply to facilities using water for agricultural purposes. The authority shall collect the fees on a quarterly basis and pay the collected fees into the State Treasury to the credit of a restricted fund for use by the authority. If any amount in the fund for the administration of the authority remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account of the authority and may be used during any succeeding year so long as it is calculated in the user fee rates set by the Finance and Administration Cabinet.

(4) The water user fees collected by the authority shall not be subject to state and local taxes.

Section 2. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45.360;

(5) ***Collect*** [~~Issue revenue bonds, in accordance with KRS 151.730, payable from~~] fees [~~collected~~] from all facilities using water from the Kentucky River or its tributaries, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;

(6) ***Issue revenue bonds in accordance with KRS 151.730.***

(7) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(8)[~~(7)~~] ***Promulgate*** [~~Issue~~] administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(9)[~~(8)~~] Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;

(10)[~~(9)~~] Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority shall develop a unified long-range water resource plan for the basin. The authority shall conduct a public hearing on the plan, and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason shown. A drought response plan for the basin shall be developed by the authority, and this plan shall be implemented for the basin upon the direction of the authority;

(11)[~~(10)~~] Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations shall be ***promulgated*** [~~issued~~] implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(12)[~~(11)~~] Develop recreational areas within the basin. These recreational areas shall be operated and funded by the state Department of Parks, as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(13)[~~(12)~~] The authority may utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for ***the*** [~~such~~] repairs and no other funds are available for such maintenance;

(14)[~~(13)~~] Coordinate the Kentucky River basin water resources activities among state agencies;

(15)[~~(14)~~] Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue; and

(16)[~~(15)~~] Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority.

The Committee Amendment No. 1 to **HB 832** is as follows:

On page 1, line 7, by deleting "***Within thirty (30) days following enactment of the executive budget, the authority***" and insert in lieu thereof the following: "***At the time the authority submits its budget to the Governor's Office of Policy and Management, it***"; and

On page 1, line 8 after "***certify to the***" insert "***General Assembly and the secretary of the***"; and

On page 1, line 9 by deleting "***calendar year***" and substituting therefore "***biennium***"; and

On page 1, line 10 by deleting "***ten (10)***" and inserting "***thirty (30)***"; and

On page 1, line 11 before "***Finance***" insert "***secretary of the***"; and

On page 1, line 13 by deleting "***for the preceding year***" and inserting a "***,***"; and

On page 2, line 3 by deleting "***collected by***" and inserting "***imposed by and collected for***".

HB 888, AN ACT relating to the state budget process and the administration thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Account" is a technical accounting term meaning a formal record in which related transactions and events, (i.e., expenditures, receipts, encumbrances, and inter-account charges or credits) which occur during a specific period of time, are summarized and accumulated.

(2) "Activities" means those actions or services performed by a budget unit which depict in a quantitative manner the fulfillment of lawful purposes.

(3) ***Appropriation-related terms are defined for procedures prescribed by this chapter as follows:***

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in this chapter***;***[~~.~~]

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by this chapter and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" [~~(4) "Appropriation act"~~] means ***an enactment by*** [~~any act~~] of the General Assembly that authorizes the expenditure of public funds ***in an executive, judicial, or legislative***[~~, other than a~~] branch budget bill ***as*** provided for by this chapter.

(4)[~~(5)~~] "Budget" means the complete financial plan for each fiscal year contained in a branch budget bill provided for by this chapter.

(5) "Branch budget bill" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan of each branch of government.

(6) "Branch budget recommendation" means the recommendations to the General Assembly of the Governor for the executive branch ***and for fiscal matters related to the function of the government of the Commonwealth,*** the Chief Justice for the judicial branch, and the Legislative Research Commission for the legislative branch, accompanied by an estimate of the receipts and expenditures for each branch and accompanying explanations provided for by this chapter for the next two (2) fiscal years.

(7) "Budget unit request" means a detailed statement of the financial requirements of a budget unit by principal budget class,

and an estimate of its receipts and expenditures for the next two (2) fiscal years, with the accompanying explanations provided for by this chapter.

(8) "Budget unit" means any subdivision ***or appropriation unit*** of any branch of government, however designated ***in any branch budget bill***[~~, for which appropriations are requested~~].

(9) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, equipment or other permanent properties, or in their construction, development, or permanent improvement.

(10) "Disbursement" means cash actually paid out for any purpose.

(11) "Employee" means the lawful incumbent of a position.

(12) "Expenditure" means cash actually paid out or an exchange of value for any purpose.

(13) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources or both together with all related liabilities, obligations, reserves, and equities which are segregated for the purpose of carrying on specific activities in accordance with legal restrictions or other limitations, to include:

(a) "General Fund." This fund shall consist of all moneys, not otherwise restricted, available for the general operations of state government.

(b) "Bond Debt Related Fund." This fund shall consist of all outstanding bonded debt liability and related funds of state government, including all revenue bonds issued by or approved by the State Property and Buildings Commission. Accounts necessary to assure integrity of trust indentures shall be maintained. Funds appropriated for debt service shall be allotted to these accounts and any excess of appropriation over net requirements for principal, interest and reserves for any issue shall lapse to the surplus account of the general fund if general funds are a part of the appropriation for that budget unit.

(c) "Capital Construction Fund." This fund shall consist of moneys appropriated under the provision of KRS 45.750 to 45.800 for capital construction projects, except road construction projects, for all budget units of state government.

(d) "Federal Fund." This fund shall include all receipts from the federal government for any purpose.

(e) "Fiduciary Fund." This fund shall consist of moneys held by a budget unit in a trustee [~~or agency~~] capacity.

(f) "Restricted Fund." This fund shall consist of budget unit receipts restricted as to purpose by statute.

(g) "Road Fund." This fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and moneys derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways. A separate record of each source of receipt within this fund group shall be maintained.

(14) "Principal budget class" includes the following:

(a) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, or other permanent properties, or in their construction, development, or permanent improvement estimated to cost less than two hundred thousand dollars ($200,000), and items of equipment or other capital items estimated to cost less than fifty thousand dollars ($50,000).

(b) "Debt service" means the amount of money required to pay the interest, principal, and required contributions to accumulate moneys for future retirement of lawfully incurred debt.

(c) "Grants, loans, or benefits" means expenditures for any grant, aid, loan, or relief payment to individuals, organizations, or jurisdictions not otherwise classified pursuant to this chapter.

(d) "Operating expenses" means expenditures directly attributable to the operation of state government not otherwise classified pursuant to this chapter.

(e) "Personnel costs" means the salaries, wages, benefits (including but not limited to, employer share of FICA, retirement contributions, insurance, unemployment insurance, workers' compensation), and increments of all officers and employees, and payment to persons awarded personal service contracts.

(15) "Receipts" includes the following:

(a) "Nonrevenue receipts" means values accruing that either decrease an asset or create a liability.

(b) "Operating receipts" means cash received by a budget unit for services rendered, or from the sale of materials, goods, or supplies created by the budget unit or of items held for resale.

(c) "Revenue receipts" means values accruing as a result of taxation or revenues, or both, and without resultant increase in liabilities or decrease in assets, whether such values are represented by cash actually received or by amounts due and payable, or partly by each.

Section 2. KRS 48.130 is amended to read as follows:

(1) The branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, ***if*** [~~when~~] projected or actual tax receipts accruing to the general fund or road fund are [~~at least two and one-half percent (2.5%) but not more than~~] five percent (5%) ***or*** less than the

revenue estimates for these funds as determined under subsection (3) of KRS 48.120.

(2) (a) In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;

(b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;

(c) A layoff of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of KRS 18A.1132; and

(d) A layoff of state employees in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of KRS 18A.1132.

(3) The plan shall be enacted as modified by the General Assembly in each branch budget bill.

(4) ***Within thirty (30) days after each fiscal quarter, it is the duty of the secretary of the Finance and Administration Cabinet to project on a quarterly basis the projected tax receipts for at least the next subsequent three (3) quarterly periods along with the actual tax receipts from the then concluded quarter. The anticipated tax receipts shall be documented in comparison with the estimated revenue receipts upon which the branch budget bills were developed pursuant to KRS 48.120. A report reflecting the analysis, and any potential consequences upon the Commonwealth's fiscal condition, shall be presented to the head of each branch on a quarterly basis.***

(5) Based upon the information provided for in subsection (4) of this section and in the event of an actual or projected deficit in tax receipts provided for by this section, the Finance and Administration Cabinet shall notify all branches of government:

(a) If funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the branch budget bill, and the Governor, the Chief Justice, and the Legislative Research Commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the branch budget bill; and

(b) In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the branch budget bill shall not be implemented.

(6)[~~(5)~~] ***Based upon the information provided for in subsection (4) of this section and*** in the event of an actual or projected deficit in tax receipts provided for by this section of less than two and one-half percent (2.5%), the Governor, the Chief Justice, and the Legislative Research Commission shall implement budget reductions for their respective branches on their own initiative ***consistent with the provisions of the enacted branch budget bills***.

(7)[~~(6)~~] The budget reduction plan shall provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any such reduction of the annual increment shall be uniform for all employees.

(8)[~~(7)~~] If general fund or road fund tax receipts increase over the estimated deficits, then services shall be restored in the reverse order of the reduced services.

(9)[~~(8)~~] This section shall not preclude the General Assembly, in regular or special session, from amending a branch budget bill requiring budget reductions nor shall it preclude the Governor from calling a special session of the General Assembly at any time the budget reduction plan is in effect.

(10) No authority is given to any branch head to take any budget reduction action in excess of the actual or projected deficit.

Section 3. KRS 48.400 is amended to read as follows:

(1) The Finance and Administration Cabinet shall continuously monitor the financial situation of the Commonwealth. Based upon reports from budget units and its own estimates, the cabinet shall no later than the tenth day of each month or more often if necessary, report to the Governor, Chief Justice, and the Legislative Research Commission on the financial condition of the Commonwealth and its budget units.

(2) In the event there is an actual or anticipated surplus or decrease in total estimated tax receipts, as determined under subsection (3) of KRS 48.120 ***and subsection (4) of KRS 48.130***, [~~of such magnitude as to require action under a surplus or budget reduction plan~~], immediate notification shall be given to all branches of government.

Section 4. KRS 48.600 is amended to read as follows:

(1) In the event of an actual or projected deficit, as determined by the Finance and Administration Cabinet, in total tax receipts, as specified in KRS 48.130, of ***five percent (5%) or*** less [~~than five percent (5%)~~], the Governor, the Chief Justice, and the Legislative Research Commission shall make ***any*** [~~such~~] allotment reductions for the budget units of

their respective branches of government *that* [~~as~~] are deemed necessary, and shall take *any* [~~such~~] steps to revise allotments for their respective branches *that* [~~as~~] are necessary to prevent a cash deficit.

(2) *No authority is given to any branch head to take any budget revision action in excess of the actual or projected deficit.*

(3) [~~Such~~] Allotment revisions shall be reported to the standing Appropriations and Revenue Committees of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate.

Section 5. KRS 48.610 is amended to read as follows:

By June 1 of the preceding fiscal year, each branch of government shall submit to the Finance and Administration Cabinet a schedule of quarterly allotments of appropriations for each budget unit of the branch for the next fiscal year. *Allotments shall conform with the appropriations in the enacted branch budget bills, or other appropriation provisions, and the budget unit structure in the statutory budget memorandum.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) No unbudgeted appropriation shall be allotted without prior review and action by the Interim Joint Committee on Appropriations and Revenue as provided for in this section.

(2) Except as otherwise provided for in this section, any request for allotment of unbudgeted appropriations from any fund source shall be documented in written detail by the head of the budget unit and transmitted simultaneously to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

(3) The state budget director may recommend a proposed revision to a specified appropriation in any branch budget bill to the Interim Joint Committee on Appropriations and Revenue by the seventh day of each month.

(4) The Interim Joint Committee on Appropriations and Revenue shall review the proposed expenditure of the unbudgeted appropriation for conformance with the purposes of the proposed appropriation and the enacted branch budget bill, the statutory budget memorandum, and any other relevant statute, by the last day of each month.

(5) If the Interim Joint Committee on Appropriations and Revenue disapproves of the proposed revision of the enacted appropriation, the budget adjustment shall be invalid unless it is:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed, in writing, in detail, within thirty (30) days of the committee's disapproval, that a determination has been made not to comply with the objections of the committee.

(6) If the Interim Joint Committee on Appropriations and Revenue fails to review and act upon the proposed revision by the last day of the month, the proposed revision shall be deemed to have been reviewed and favorably acted upon.

(7) If an emergency unbudgeted appropriation revision is required due to a declared natural disaster, calamity, or impending deficit in an enacted appropriation as certified by the Governor, the state budget director is empowered to effect an emergency revised appropriation, with the approval of the secretary of the Finance and Administration Cabinet, and with prior notification to the Interim Joint Committee on Appropriations and Revenue of the action and its justification.

(8) If a budget unit not listed in any enacted branch budget bill receives unanticipated restricted funds or federal funds, the secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity, and use of the moneys, may authorize the credit and expenditure of these funds for statutory purposes, upon recommendation of the state budget director and review and action by the Interim Joint Committee on Appropriations and Revenue pursuant to the conditions and procedures prescribed by this section. The secretary shall cause to be established a separate discrete restricted funds or federal funds account, as appropriate, for the receipt and disbursement of these funds and shall establish the maximum sum which may be credited and expended from the authorized account.

(9) Institutions of higher education shall be exempt from all conditions and procedures in this section with respect to the authority of the state budget director and the secretary of the Finance and Administration Cabinet to review and approve unbudgeted restricted funds or federal funds or revisions to appropriations in excess of any enacted branch budget bill; however, in the event of a revision, an institution of higher education shall report unbudgeted restricted funds and federal funds to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

(10) Unbudgeted appropriations for expenditure in the judicial branch budget and the legislative branch budget shall be exempt from all conditions and procedures in this section, except that each branch head, or its designee, shall report unbudgeted restricted funds and federal funds to the Interim Joint Committee on Appropriations and Revenue and transmit an informational copy to the state budget director.

(11) The Legislative Research Commission shall maintain records of the findings of the Interim Joint Committee on Appropriations and Revenue and the determinations and reports of actions by the state budget director and transmit these records to the General Assembly when next convened.

SECTION 7. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Allotments within appropriations for the activities and purposes contained in an enacted branch budget bill may be revised as follows:

(a) For the executive branch, upon authorization of the state budget director at the request of the head of a budget unit;

(b) For the judicial branch, upon authorization of the director of the Administrative Office of the Courts, or his designee; and,

(c) For the legislative branch, upon authorization of the director of the Legislative Research Commission, or its designee.

(2) A copy of the request and determinations shall be transmitted to the Interim Joint Committee on Appropriations and Revenue prior to the implementation of the revision of the allotment.

SECTION 8. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

No state agency entitled to federal funds which would represent one hundred percent (100%) of the cost of a program in which the state participates shall decline to accept or receive that entitlement without notification to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

SECTION 9. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

In the event that any authorized capital construction or equipment purchase projects are canceled or if conditions imposed by any branch budget bill are not met, any appropriated general or road fund debt service for those projects shall remain unallotted and lapse to the credit of the respective surplus account. In the event that General or road fund appropriated debt service is more than is required due to favorable interest rates, refinancing, or timing variances, the excess debt service in each fiscal year shall remain unallotted and lapse to the credit of the respective surplus account.

SECTION 10. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

In enacting any branch budget bill, it is the intention of the General Assembly to enact each section, each subsection, and each appropriation sum by specified fund or funds accounts as a separate and specific appropriation and law; and, if any section, any subsection, or any provision shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained in that branch budget bill.

SECTION 11. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Any appropriation in any branch budget bill and any other enactment by the General Assembly which contains an appropriation provision for the same purpose and in the same amount shall be construed as duplicate sums, and no additional moneys shall be provided for the duplicate appropriations. Questions of interpretation of duplicate appropriations shall be determined as prescribed by this chapter.

SECTION 12. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Totals and subtotals given within any branch budget bill and any appropriation provision in any other enactment are provided as a convenience and shall not constitute appropriations of funds. To the extent that a total or subtotal conflicts with the sum of the appropriation figures of which it consists, the amounts of the individual appropriations shall control. If a conflict of this nature arises, either as a result of an inadvertent error in initial entry of a total or subtotal or through an amendment to any of its component appropriations, the director of the Legislative Research Commission shall apprise the reviser of statutes in writing of the existence of and reason for the variation and of the correct amount of the total or subtotal. If the requested change is within the scope of this section, the reviser of statutes shall cause that corrected total or subtotal to be substituted in the Acts and journals of the General Assembly and in the Kentucky Revised Statutes.

Section 13. KRS 13A.220 is amended to read as follows:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file the original and five (5) copies of a proposed administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) A proposed amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of a proposed administrative regulation shall be as follows:

(a) A proposed administrative regulation shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches and shall be double-spaced. Copies of the proposed administrative regulation may be mechanically reproduced;

(b) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the proposed administrative regulation;

(c) The cabinet, department and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(Proposed Amendment)" or "(Amended After Hearing)," whichever is applicable. If a proposed administrative regulation is new, the notation shall read "(Proposed Administrative Regulation)";

(d) The notation shall be followed by the number and title of the proposed administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new proposed administrative regulation;

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list any statutes and other enactments, including ***any branch budget bills*** [~~appropriation acts~~] or executive orders, to which the proposed administrative regulation relates or which shall be affected by the proposed administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the proposed administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the proposed administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of a proposed administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.

(b) The authorizing signature of the administrative body promulgating the proposed administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the proposed administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270.

(e) The name of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

Section 14. KRS 13A.222 is amended to read as follows:

(1) In a new proposed administrative regulation, there shall be no underlining or bracketing.

(2) In all proposed amendments to administrative regulations, the proposed new words shall precede the proposed deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all proposed new words; and

(b) Place the proposed deleted words in brackets and strike through these words.

(3) (a) No administrative regulation shall be amended by reference to a section only. A proposed amendment shall contain the full text of the administrative regulation being amended.

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed in the first section of a proposed administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of a specific chapter of the Kentucky Administrative Regulations Service. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;
2. To avoid repetition of a phrase; or
3. To limit or extend the provisions of a proposed administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	—
At the time	when
And the same hereby is	is
Either directly or indirectly	—
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall

It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

(l) Unless the authority for an administrative regulation is an appropriation ***provision*** ~~[act]~~ that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of a proposed administrative regulation shall be cited. If an act has not been codified at the time a proposed administrative regulation is promulgated, or if the authority is ***any branch budget bill*** ~~[an appropriation act]~~, the citation shall be as follows: "Acts (year), Chapter (chapter number), Section (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.

Section 15. KRS 45.246 is amended to read as follows:

The draft ***branch budget bills, draft bills with an appropriation provision,*** ~~[appropriation act or acts]~~ and the biennial highway construction act or acts submitted to the General Assembly by the Governor, and the act or acts enacted by the General Assembly, shall comply with the provisions of KRS 45.245 to 45.248. Expression of general exclusion including, but not limited to, "any act or statute to the contrary notwithstanding," and "the provisions of any other law notwithstanding" shall not be effective as an exemption from the provisions of KRS 45.245 to 45.248. Exemptions from the provisions of KRS 45.245 to 45.248 shall include the specific projects exempted.

Section 16. KRS 45.351 is amended to read as follows:

(1) Every state administering agency shall submit any block grant application for the following fiscal year to the Legislative Research Commission no less than ninety (90) days prior to the date of submission, as required by federal law, of the block grant application to the federal administering agency or no less than ninety (90) days before the state administering agency elects to submit the block grant application to the federal administering agency.

(2) Each state administering agency shall, upon request of the Commission, make available to the Commission all background data and supporting information related to each block grant application under review by the Commission as will enable the Commission to perform its functions in an informed and efficient manner.

(3) Each block grant application submitted by the state administering agency to the Legislative Research Commission shall specify the proposed use and distribution of the block grant and other funds to be allocated by the state administering agency to programs and services; and in addition, each application shall specify:

- (a) Programmatic and other requirements applicable to the receipt and expenditures of block grant and other funds, including state matching funds, specified in the application, and the restrictions imposed on the use of these funds;
- (b) Whether the block grant and other funds included in the application have been included specifically in an appropriation ***provision*** or ***any branch budget bill*** ~~[appropriation act]~~ enacted by the General Assembly in anticipation of such application;
- (c) Whether the funding is one-time, recurring or continuing;
- (d) What costs will accrue to the state if federal funds diminish or are cut, and whether a budget reduction plan has been prepared for such contingency;
- (e) Whether the programs and services to be provided under the block grant are mandated by the laws of the Commonwealth;
- (f) Whether the programs and services to be provided under the block grant are those which the Commonwealth currently administers and funds;
- (g) The agencies expected to provide the services including whether such agencies are public or private or state or local;
- (h) The manner in which the allocation of funds will be targeted to need;
- (i) Geographic areas to be served by the programs and services;
- (j) Standards of eligibility for services;
- (k) The criteria and method that will be used by the state administering agency to distribute the block grant funds;
- (l) Whether and how block grant funds would be transferred from one (1) block grant to another and the amount of the transfer;

(m) The proportion of the block grant funds to be used for administrative costs; and

(n) Estimated receipt of federal funds applied for by block grant.

Section 17. KRS 45.353 is amended to read as follows:

(1) The Commission shall refer each block grant application received to the designated review body for review and consideration.

(2) The designated review body shall review and consider each block grant application according to the following standards and criteria, and shall make an affirmative finding of fact that:

(a) Except as provided in paragraph (b) of this subsection, block grant and other funds specified in the application have been included in an appropriation ***provision*** or ***any branch budget bill*** [~~appropriation act~~] enacted by the General Assembly in anticipation of such application;

(b) Any excess in the total amount of block grant funds sought over the total amount of such funds anticipated and included in an appropriation ***provision*** or ***any branch budget bill*** [~~appropriation act~~], has been included in a surplus expenditure plan approved by the General Assembly;

(c) A budget reduction plan specifying programs and services to be eliminated or to be reduced in scope if federal funding diminishes or is cut, has been included;

(d) The budget reduction plan does not propose to increase the ratio of state funds to federal funds if federal funding diminishes, or is cut;

(e) Block grant and other funds to be provided under the application are fairly and equitably distributed among those programs, services or recipients eligible for block grant funding;

(f) Block grant and other funds to be provided under the application are not to be used to fund programs or services that would duplicate or supplant existing programs or services funded by the private sector;

(g) The intended uses of block grant and other funds specified in the application are in compliance with the applicable federal and state laws pertaining to such block grant funds; and

(h) The amount of block grant and other funds to be retained by the state administering agency for administrative purposes does not exceed an amount allowable under federal law.

Section 18. KRS 45.359 is amended to read as follows:

(1) If any other section of KRS 45.351 to 45.358 is declared unconstitutional, any other statute to the contrary notwithstanding, no block grant money received from the United States government shall be spent or allocated unless appropriated by the General Assembly in regular or special session.

(2) This section shall supersede all statutes other than KRS 45.351 to 45.358 and ***any branch budget bills*** [~~all appropriation acts~~] with respect to the expenditure of federal block grant funds and any statute in conflict herewith is repealed to the extent of the conflict.

Section 19. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;
2. The justification for the project;
3. Its estimated completion date;
4. The total estimated cost of completing the project;
5. The estimated cost of the project during the biennium;
6. The recommended sources of funds for the entire project; and
7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection

(2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation; and

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 20. KRS 45.765 is amended to read as follows:

The draft ***branch budget bills*** [~~appropriation acts~~] submitted to the General Assembly, and the ***branch budget bills*** [~~appropriation acts~~] enacted by the General Assembly, shall comply with the provisions of KRS 45.750 to 45.810. Expressions of general exclusion, including but not limited to, "any act or statute to the contrary notwithstanding," and "the provisions of any other law notwithstanding," shall not be effective as an exemption from the provisions of KRS 45.750 to 45.810. Exemptions from the provisions of KRS 45.750 to 45.810 shall include the specific projects exempted.

Section 21. KRS 45.780 is amended to read as follows:

(1) There is created within the capital construction fund the emergency repair, maintenance, and replacement account. The account shall consist of moneys appropriated to the fund by the General Assembly.

(2) The Finance and Administration Cabinet may transfer money from the emergency repair, maintenance, and replacement account to the allotment account of an emergency repair, replacement, or maintenance project, for expenditure thereon, even though the specific project is not included in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted for that biennium. The Finance and Administration Cabinet shall report each transfer, including the necessity, purpose, and amount of the transfer, to the Capital Projects and Bond Oversight Committee not later than thirty (30) days after the transfer.

Section 22. KRS 45.810 is amended to read as follows:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review and recommendation. The Turnpike Authority shall be exempt from this review.

(2) The Capital Projects and Bond Oversight Committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the ***branch budget bill*** [~~appropriations act~~].

(3) If the committee does not recommend a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the project shall be referred to the secretary of the Finance and Administration Cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the secretary of the Finance and Administration Cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

Section 23. KRS 45.814 is amended to read as follows:

Prior to the issuance of the revenue bonds or notes authorized by ***a branch budget bill*** [~~an appropriations act~~], the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint

Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all these persons, bond counsel, and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this section shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

Section 24. KRS 48.111 is amended to read as follows:

(1) The Governor shall include in the executive branch budget recommendation and in the draft ***branch budget bill*** [~~appropriations act~~] for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars ($200,000).

(2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar ($200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease; and

4. The recommended sources of funds.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The ***branch budget bill*** [~~appropriations act~~] for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.

(4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars ($200,000) shall be executed unless the lease has been identified and included in the ***branch budget bill*** [~~appropriations act~~]. The ***branch budget bill*** [~~appropriations act~~] for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.

(5) A lease with an annual rental cost exceeding two hundred thousand dollars ($200,000) may be authorized even though it is not specifically listed in the biennial budget report and ***branch budget bill*** [~~appropriations act or acts~~], subject to the following conditions and procedures:

(a) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(4) shall apply; or

(b) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and

2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and

3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.

(6) (a) Prior to final authorization of a lease pursuant to paragraph (b) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease;

4. The source of funds; and

5. Whether the requirements of paragraph (b) of subsection (5) of this section have been met.

(b) Within thirty (30) days after the report has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.

(c) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

1. Revise the proposed lease authorization to comply with the objection of the committee; or
2. Cancel the proposed lease authorization; or
3. Determine to proceed with the proposed lease authorization disapproved by the committee.

(d) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (c) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(e) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.

(f) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

Section 25. KRS 56.440 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the State Property and Buildings Commission;

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto;

(3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery, or devices for the purpose of establishing, developing, or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only (except for industrial development projects) if used or to be used by the Commonwealth of Kentucky or one (1) of its departments or agencies (not including independent municipal corporations or political subdivisions);

(4) "Building project" includes the acquisition of any real estate and the acquisition, construction, reconstruction, and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities, and furnishings of a permanent nature for buildings; the purchase and installation initially of movable equipment, furnishings, and appurtenances necessary to make a building operable; and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one (1) of its departments or agencies, not including any independent municipal corporation or political subdivision, or any other capital outlay program authorized by ***any branch budget bill*** ~~[appropriations acts]~~ or other legislation;

(5) "Industrial development project" means and includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of such real estate for conveyance to or lease to industrial entities to be used for manufacturing, processing, or assembling purposes, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries, and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities, off-site construction of utility extensions to the boundaries of such real estate, construction and installation of buildings, including buildings to be used for worker training and education, rail facilities, roads, sidewalks, curbs and other improvements to such real estate necessary to its manufacturing, processing, or assembling use by industrial entities; provided that an industrial entity must have agreed with the commission, prior to the financing of an industrial development project, to develop, in conjunction with such industrial development project, manufacturing, processing, or assembling facilities satisfactory to the commission;

(6) "Industrial entity" means any corporation, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, or assembling facility on the site of an industrial development project financed pursuant to this chapter;

(7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount of money which is equal to all tax revenues received by the Commonwealth, as taxing entity, during such fiscal year in respect of an industrial development project and improvements and equipment thereon and the products thereof, and activities carried out by the occupants and users of such industrial development project, minus an amount equal to all tax revenues received by the Commonwealth, as taxing entity, in respect of the site of the industrial development project and the same type of taxable properties and activities during the fiscal year immediately preceding the fiscal year during which construction of the improvements undertaken by an industrial entity as a result of the financing of such industrial development project commenced. Incremental taxes shall include such tax revenues as state corporate income taxes, state income taxes paid by employees of manufacturing, processing, and assembling facilities developed on the site of an industrial development project, state property taxes, state corporation license taxes, and state sales and use taxes, but shall not include any taxes levied specifically for educational purposes;

(8) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any

board, commission, institution, or division exercising any function of the state but which is not an independent municipal corporation or political subdivision;

(9) "Cabinet" means the Finance and Administration Cabinet;

(10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite;

(11) "Asbestos-containing material" means any material which contains more than one percent (1%) asbestos by weight; and

(12) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

Section 26. KRS 154.12-100 is amended to read as follows:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement;

(c) Degree and conditions of project payback; and

(d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the Capital Projects and Bond Oversight Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) The Kentucky General Assembly hereby finds that encouraging development of new markets for recycled products in order to extend landfill capacity in the Commonwealth is an important economic development strategy. Beginning with February 26, 1991, the Cabinet for Economic Development shall set as a target a minimum of twenty percent (20%) of the funds available to the bond program for funding projects which create or expand markets for materials recovered or diverted from the solid waste stream notwithstanding the direct number of jobs to be created or retained by such projects.

(5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in ***a branch budget bill*** ~~[an appropriations act]~~. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the board, and the State Property and Buildings Commission, under the provisions of KRS 56.450.

(6) Following the approval by the board and the State Property and Buildings Commission, the project shall be presented by the secretary of the Cabinet for Economic Development with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(7) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(8) The Cabinet for Economic Development shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

(9) The secretary of the Cabinet for Economic Development shall provide semiannual reports to the Interim Joint Committee on Agriculture and Natural Resources on the programs carried out by the cabinet to promote market development for recycled products. In the semiannual reports, the secretary shall cite specific recycling-related projects and investments made under the economic development bond program and other programs within the cabinet's jurisdiction.

Section 27. KRS 175.780 is amended to read as follows:

(1) In order to provide for the construction, reconstruction, and relocation of economic development road projects, the authority is hereby authorized and empowered, subject to the limitations contained in the biennial branch budget bill, under and pursuant to the terms and provisions of a written agreement or agreements with the cabinet, to construct, reconstruct, relocate, finance, and operate economic development road projects, to lease such projects to the cabinet, and

to issue economic development road revenue bonds or notes of the authority to finance such projects. In the planning, construction, and financing of any economic development road project, the authority and the cabinet shall, subject to the provisions of KRS 175.750 to 175.810, have and use all authority, procedures, and rights provided by the provisions of KRS 175.410 to 175.690, inclusive.

(2) Subject to the limitations contained in the biennial ***branch budget bills*** [~~appropriation acts~~], the turnpike authority is hereby authorized to issue revenue bonds or notes in the amount of six hundred million dollars ($600,000,000), exclusive of any costs incurred in the issuance of the bond or notes, amounts necessary to fund a debt service reserve fund, or capitalized interest on the bonds or notes, or both, for the purpose of financing economic development road projects. The projects to be financed by these bonds or notes shall be the following projects limited to the costs established by this subsection:

	Route	Total Project Cost
(a)	US-60	$ 39,250,000;
(b)	US-68	$174,915,000,

the projects authorized by this paragraph shall be for the segments of US-68 from Bowling Green to Cadiz as submitted by the Transportation Cabinet in the 1990 Highway Construction Plan, except that funding shall be used for completion of the southern corridor of the US-68 By-pass in Christian County;

(c)	US-127	$139,560,000;
(d)	US-119, Letcher County, Pine Mountain Section	$ 5,500,000;
(e)	US-460	$ 11,500,000;
(f)	AA-HWY	$114,355,000;
(g)	US-25E	$ 52,950,000;
(h)	US-23	$161,700,000.

The authority may expend funds in excess of the total project cost, but shall not exceed the total cost by more than ten percent (10%). If any route is completed at a cost less than the amount specified by this subsection, the authority shall utilize the remainder of the funds for the sole purpose of completion of projects as specified in this subsection regardless of whether project costs exceed the ten percent (10%) requirement.

(3) The proceeds of the bonds issued under this authorization shall be used solely for the payment of the cost of the economic development road projects for which these bonds shall have been issued, as provided in subsection (2) of this section. The authority shall provide this restriction in the proceedings and preliminary documents authorizing the issuance of the bonds and in the trust indenture securing the same. Any refunding of such bonds by the authority shall also provide such restriction. Any proceeds of the bonds issued under this authorization remaining after the completion of the projects for which these bonds shall have been issued shall be transferred to the bond service account.

(4) (a) Prior to the issuance of the revenue bonds or notes authorized by this section, the turnpike authority shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this paragraph, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

(b) The costs required to be furnished under the provisions of paragraph (a) of this subsection shall not include the payment of wages or expenses to full-time, permanent employees of the Commonwealth of Kentucky.

Section 28. KRS 196.710 is amended to read as follows:

(1) The director shall award grants to community corrections programs in accordance with the policies established by KRS 196.700 to 196.735 and in accordance with any laws made for that purpose, including ***any branch budget bill*** [~~appropriations acts~~] and ***appropriation*** provisions [~~in appropriations acts~~], and shall adopt administrative regulations for the implementation, operation, and monitoring of community corrections programs.

(2) Grants shall be awarded by the director to community corrections programs whose community corrections program plans meet the requirements set forth in KRS 196.720 and which in the director's judgment promise to meet the goals set forth in KRS 196.700 to 196.735. Grants shall be awarded to encourage a range of services in each jurisdiction.

(3) Grants may be awarded only to programs or agencies which have established community corrections boards as provided

in KRS 196.725 unless the director determines that the program or agency is governed by a board which will serve the same functions as described in KRS 196.700 to 196.735, and that establishment of a new or additional board as described in KRS 196.725 would impose an administrative burden upon or pose a conflict of interest for the program or agency.

(4) Grants shall not be awarded to programs that have failed to accomplish the purposes set forth in KRS 196.705 and that show no promise of doing so in the future, as determined pursuant to KRS 196.735.

(5) Preference in funding may be given to areas of the state in which programs and services do not exist or are largely inadequate.

Section 29. KRS 230.217 is amended to read as follows:

(1) There is created in the State Treasury and accounting system, for the use and benefit of the commission, a trust and revolving fund, to be known as the "Breeders' Award Fund," consisting of moneys allocated to the fund under the provisions of KRS 230.380(9) and subsection (3) of this section.

(2) The breeders' award fund shall be administered and maintained by the Breeders' Award Committee, a standing committee of the commission, comprised of five (5) commission members: the chairman of the commission, the vice chairman of the commission, and three (3) at-large members of the commission appointed by the chairman for one (1) year terms. As soon as practicable after the close of each fiscal year, the Breeders' Award Committee shall disburse to thoroughbred breeders and stallion owners all moneys in the breeders' award fund on terms and based on criteria determined by the full commission and promulgated by administrative regulation. The amounts of all disbursements and the identities of all recipients of disbursements shall be reported to the full commission at the first regularly scheduled meeting succeeding the disbursements. Notwithstanding the foregoing, the committee shall, prior to making any disbursements to individual breeders, make the following allocations:

- (a) Three percent (3%) of all moneys on deposit in the breeders' award fund to the commission, which shall be used by the commission for purses at harness racing events at county fairs within the Commonwealth of Kentucky that have been licensed and approved by the commission; and
- (b) Seven percent (7%) of all moneys on deposit in the breeders' award fund to the Kentucky standardbred development fund.

(3) Effective July 1, 1993, the breeders' award fund shall be guaranteed a balance of three million, seven hundred fifty thousand dollars ($3,750,000) per year. By July 15 of each year, the Revenue Cabinet shall have calculated the amount of revenue deposited in the fund during the previous fiscal year, and, if commissions from simulcast facilities are not sufficient to ensure the prescribed funding level, the difference shall be deposited in the breeders' award fund from a general fund appropriation to the commission subject to conditions set forth in the ***branch budget bill*** [~~appropriations act~~]. The Revenue Cabinet shall separately account for and report the trust and revolving fund receipts received under this provision.

Section 30. KRS 18A.1132 is amended to read as follows:

(1) Prior to a layoff of state employees in the executive branch, required by a projected or actual reduction in tax receipts contemplated under the provisions of subsections (1) and ***(6)***[~~(5)~~] of KRS 48.130, each cabinet shall prepare a lay-off plan that complies with the provisions of KRS 18A.113 and this section.

(2) Each lay-off plan shall provide that a layoff of state employees shall occur only after all other cost saving measures are taken and have failed to alleviate the projected or actual deficit. These measures shall be specified in the plan, in detail, and shall include but not be limited to:

- (a) A hiring freeze of all types of appointments;
- (b) A reduction or delay of expenditures that would not prevent the provision of services required by law;
- (c) Consolidation of offices and job duties that would not prevent the provision of services required by law;
- (d) Transfer of funds as provided by the budget reduction plan enacted pursuant to KRS Chapter 48;
- (e) Transfer of funds appropriated for or allotted to vacant positions as provided by the budget reduction plan provided for by KRS 48.130, unless it is certified that the positions are essential and cannot be filled in the period during which layoffs are to occur by transfer of existing employees of the appointing authority;
- (f) The filling of vacancies and promotions from within the cabinet; and
- (g) Transfers of employees within the cabinet as provided by KRS 18A.1131(3) and (4).

(3) Each cabinet shall submit:

- (a) Its lay-off plan; and
- (b) A list of employees who would remain subject to layoff after the implementation of cost-saving measures;

to the commissioner and to the secretary of the Finance and Administration Cabinet for review. Upon approval by the secretary, the lay-off plans shall be submitted to the Governor for approval.

(4) Upon approval of the plan by the Governor, the commissioner shall attempt to transfer employees as provided by KRS

18A.1131(4)(b). Employees who cannot be so transferred may be laid off.

(5) If no position is available to an employee subject to layoff under the procedures established by this section, the employee shall be notified in writing that he is to be laid off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employees.

(6) When the hiring freeze is ended, laid-off employees shall be hired before any applicant or eligible except laid-off employees already on such registers.

Section 31. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, and joint stock companies;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless

otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions, and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year; [~~and~~]

(38) "City" includes town*; and*

(39) Appropriation-related terms are defined as follows:

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in an executive, judicial, or legislative branch budget bill as provided for in KRS Chapter 48.

Section 32. The following KRS section is repealed:

446.085 Repeal or amendment in statutes by budget bill prohibited -- Exception.

The Committee Substitute to **HB 888** is as follows:

HB 888, AN ACT relating to the state budget process and the administration thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Account" is a technical accounting term meaning a formal record in which related transactions and events, (i.e., expenditures, receipts, encumbrances, and inter-account charges or credits) which occur during a specific period of time, are summarized and accumulated.

(2) "Activities" means those actions or services performed by a budget unit which depict in a quantitative manner the fulfillment of lawful purposes.

(3) *Appropriation-related terms are defined for procedures prescribed by this chapter as follows:*

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in this chapter*;*[~~.~~]

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by this chapter and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" [~~(4) "Appropriation act"~~] means *an enactment by* [~~any act of~~] the General Assembly that authorizes the expenditure of public funds *in an executive, judicial, or legislative*[~~, other than a~~] branch budget bill *as* provided for by this chapter.

(4)[~~(5)~~] "Budget" means the complete financial plan for each fiscal year contained in a branch budget bill provided for by this chapter.

(5) "Branch budget bill" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan of each branch of government.

(6) "Branch budget recommendation" means the recommendations to the General Assembly of the Governor for the

executive branch ***and for fiscal matters related to the function of the government of the Commonwealth***, the Chief Justice for the judicial branch, and the Legislative Research Commission for the legislative branch, accompanied by an estimate of the receipts and expenditures for each branch and accompanying explanations provided for by this chapter for the next two (2) fiscal years.

(7) "Budget unit request" means a detailed statement of the financial requirements of a budget unit by principal budget class, and an estimate of its receipts and expenditures for the next two (2) fiscal years, with the accompanying explanations provided for by this chapter.

(8) "Budget unit" ***or "appropriation unit"*** means any subdivision of any branch of government, however designated ***in any branch budget bill***[~~, for which appropriations are requested~~].

(9) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, equipment or other permanent properties, or in their construction, development, or permanent improvement.

(10) "Disbursement" means cash actually paid out for any purpose.

(11) "Employee" means the lawful incumbent of a position.

(12) "Expenditure" means cash actually paid out or an exchange of value for any purpose.

(13) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts recording cash or other resources or both together with all related liabilities, obligations, reserves, and equities which are segregated for the purpose of carrying on specific activities in accordance with legal restrictions or other limitations, to include:

(a) "General Fund." This fund shall consist of all moneys, not otherwise restricted, available for the general operations of state government.

(b) "Bond Debt Related Fund." This fund shall consist of all outstanding bonded debt liability and related funds of state government, including all revenue bonds issued by or approved by the State Property and Buildings Commission. Accounts necessary to assure integrity of trust indentures shall be maintained. Funds appropriated for debt service shall be allotted to these accounts and any excess of appropriation over net requirements for principal, interest and reserves for any issue shall lapse to the surplus account of the general fund if general funds are a part of the appropriation for that budget unit.

(c) "Capital Construction Fund." This fund shall consist of moneys appropriated under the provision of KRS 45.750 to 45.800 for capital construction projects, except road construction projects, for all budget units of state government.

(d) "Federal Fund." This fund shall include all receipts from the federal government for any purpose.

(e) "Fiduciary Fund." This fund shall consist of moneys held by a budget unit in a trustee [~~or agency~~] capacity.

(f) "Restricted Fund." This fund shall consist of budget unit receipts restricted as to purpose by statute.

(g) "Road Fund." This fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and moneys derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways. A separate record of each source of receipt within this fund group shall be maintained.

(14) "Principal budget class" includes the following:

(a) "Capital outlay" means the exchange of values involved in acquiring lands, buildings, or other permanent properties, or in their construction, development, or permanent improvement estimated to cost less than two hundred thousand dollars ($200,000), and items of equipment or other capital items estimated to cost less than fifty thousand dollars ($50,000).

(b) "Debt service" means the amount of money required to pay the interest, principal, and required contributions to accumulate moneys for future retirement of lawfully incurred debt.

(c) "Grants, loans, or benefits" means expenditures for any grant, aid, loan, or relief payment to individuals, organizations, or jurisdictions not otherwise classified pursuant to this chapter.

(d) "Operating expenses" means expenditures directly attributable to the operation of state government not otherwise classified pursuant to this chapter.

(e) "Personnel costs" means the salaries, wages, benefits (including but not limited to, employer share of FICA, retirement contributions, insurance, unemployment insurance, workers' compensation), and increments of all officers and employees, and payment to persons awarded personal service contracts.

(15) "Receipts" includes the following:

(a) "Nonrevenue receipts" means values accruing that either decrease an asset or create a liability.

(b) "Operating receipts" means cash received by a budget unit for services rendered, or from the sale of materials, goods, or supplies created by the budget unit or of items held for resale.

(c) "Revenue receipts" means values accruing as a result of taxation or revenues, or both, and without resultant increase in liabilities or decrease in assets, whether such values are represented by cash actually received or by amounts due and payable, or partly by each.

Section 2. KRS 48.130 is amended to read as follows:

(1) The branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, ***if*** ~~[when]~~ projected or actual tax receipts accruing to the general fund or road fund are ~~[at least two and one-half percent (2.5%) but not more than]~~ five percent (5%) ***or*** less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120.

(2) (a) In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;

(b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;

(c) A layoff of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of KRS 18A.1132; and

(d) A layoff of state employees in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of KRS 18A.1132.

(3) The plan shall be enacted as modified by the General Assembly in each branch budget bill.

(4) ***Based upon the information provided in KRS 48.400 and*** in the event of an actual or projected deficit in tax receipts provided for by this section, the Finance and Administration Cabinet shall notify all branches of government:

(a) If funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the branch budget bill, and the Governor, the Chief Justice, and the Legislative Research Commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the branch budget bill; and

(b) In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the branch budget bill shall not be implemented.

(5) ***Based upon the information provided in KRS 48.400 and*** in the event of an actual or projected deficit in tax receipts ~~[provided for by this section]~~ of ***five percent (5%) or*** less ~~[than two and one-half percent (2.5%)]~~, the Governor, the Chief Justice, and the Legislative Research Commission shall implement budget reductions for their respective branches ***consistent with the provisions of the enacted branch budget bills*** ~~[on their own initiative]~~.

(6) The budget reduction plan shall provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any such reduction of the annual increment shall be uniform for all employees.

(7) If general fund or road fund tax receipts increase over the estimated deficits, then services shall be restored in the reverse order of the reduced services.

(8) This section shall not preclude the General Assembly, in regular or special session, from amending a branch budget bill requiring budget reductions nor shall it preclude the Governor from calling a special session of the General Assembly at any time the budget reduction plan is in effect.

(9) No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.

Section 3. KRS 48.400 is amended to read as follows:

(1) The Finance and Administration Cabinet shall continuously monitor the financial situation of the Commonwealth. Based upon reports from budget units and its own estimates, the cabinet shall no later than the tenth day of each month or more often if necessary, report to the Governor, Chief Justice***,*** and the Legislative Research Commission on the financial condition of the Commonwealth and its budget units.

(2) ***Within thirty (30) days of the close of each fiscal quarter, the secretary of the Finance and Administration Cabinet shall report to the head of each branch budget the actual revenue receipts from the just concluded quarter, as well as the projected revenue receipts for the next three (3) fiscal quarters. The report shall include a comparison with the estimated revenue receipts upon which the branch budget bills were developed pursuant to KRS 48.120 and shall note any potential consequences to the Commonwealth's fiscal condition as a result of actual or projected revenue receipts that differ from those used in the development of the branch budget bills.***

(3) In the event there is an actual or anticipated surplus or decrease in total estimated tax receipts, as determined under subsection (3) of KRS 48.120 ***and subsection (2) of this section***, ~~[of such magnitude as to require action under a surplus or budget reduction plan]~~, immediate notification shall be given to all branches of government.

Section 4. KRS 48.600 is amended to read as follows:

(1) In the event of an actual or projected deficit, as determined by the Finance and Administration Cabinet, in total tax receipts, as specified in KRS 48.130, of *five percent (5%) or* less [~~than five percent (5%)~~], the Governor, the Chief Justice, and the Legislative Research Commission shall make *any* [~~such~~] allotment reductions for the budget units of their respective branches of government *that* [~~as~~] are deemed necessary, and shall take *any* [~~such~~] steps to revise allotments for their respective branches *that* [~~as~~] are necessary to prevent a cash deficit.

(2) *No budget revision action shall be taken by any branch head in excess of the actual or projected deficit.*

(3) [~~Such~~] Allotment revisions shall be reported to the standing Appropriations and Revenue Committees of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate.

Section 5. KRS 48.610 is amended to read as follows:

By June 1 of the preceding fiscal year, each branch of government shall submit to the Finance and Administration Cabinet a schedule of quarterly allotments of appropriations for each budget unit of the branch for the next fiscal year. *Allotments shall conform with the appropriations in the enacted branch budget bills, or other appropriation provisions, and the budget unit structure in the statutory budget memorandum.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) An unbudgeted appropriation shall not be allotted without prior review and action by the Interim Joint Committee on Appropriations and Revenue as provided for in this section.

(2) Except as otherwise provided in this section, any request for allotment of unbudgeted appropriations from any fund source shall be made in writing by the head of the budget unit and transmitted simultaneously to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

(3) The state budget director may recommend a proposed revision to a specified appropriation in any branch budget bill to the Interim Joint Committee on Appropriations and Revenue by the seventh day of each month.

(4) If the Interim Joint Committee on Appropriations and Revenue fails to review and act upon the proposed revision by the last day of the month, the proposed revision shall be deemed to have been reviewed and favorably acted upon.

(5) The Interim Joint Committee on Appropriations and Revenue shall review the proposed expenditure of the unbudgeted appropriation for conformance with the purposes of the proposed appropriation and the enacted branch budget bill, the statutory budget memorandum, and any other relevant statute, by the last day of each month.

(6) If the Interim Joint Committee on Appropriations and Revenue disapproves of the proposed revision of the enacted appropriation, the budget adjustment shall be invalid unless it is:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed, in writing, in detail, within thirty (30) days of the committee's disapproval, that a determination has been made not to comply with the objections of the committee.

(7) If an emergency unbudgeted appropriation revision is required due to a declared natural disaster, calamity, or impending deficit in an enacted appropriation as certified by the Governor, the state budget director may effect an emergency revised appropriation, with the approval of the secretary of the Finance and Administration Cabinet, and with concurrent notification to the Interim Joint Committee on Appropriations and Revenue of the action and its justification.

(8) If a budget unit not listed in any enacted branch budget bill receives unanticipated restricted funds or federal funds, the secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity, and use of the moneys, may authorize the credit and expenditure of these funds for statutory purposes, upon recommendation of the state budget director and review and action by the Interim Joint Committee on Appropriations and Revenue pursuant to the conditions and procedures prescribed by this section. The secretary shall cause to be established a separate discrete restricted funds or federal funds account, as appropriate, for the receipt and disbursement of these funds and shall establish the maximum sum which may be credited and expended from the authorized account.

(9) Institutions of higher education shall be exempt from all conditions and procedures in this section with respect to the authority of the state budget director and the secretary of the Finance and Administration Cabinet to review and approve unbudgeted restricted funds or federal funds or revisions to appropriations in excess of any enacted branch budget bill; however, in the event of a revision, an institution of higher education shall report unbudgeted restricted funds and federal funds to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

(10) Unbudgeted appropriations for expenditure in the judicial branch budget and the legislative branch budget shall be exempt from all conditions and procedures in this section, except that each branch head, or its designee, shall report unbudgeted restricted funds and federal funds to the Interim Joint Committee on Appropriations and Revenue and transmit an informational copy to the state budget director.

(11) The Legislative Research Commission shall maintain records of the findings of the Interim Joint Committee on

Appropriations and Revenue and the determinations and reports of actions by the state budget director and transmit these records to the General Assembly when next convened.

SECTION 7. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Allotments within appropriations for the activities and purposes contained in an enacted branch budget bill may be revised as follows:

(a) For the executive branch, upon authorization of the state budget director at the request of the head of a budget unit;

(b) For the judicial branch, upon authorization of the director of the Administrative Office of the Courts, or his designee; and,

(c) For the legislative branch, upon authorization of the director of the Legislative Research Commission, or his designee.

(2) A copy of the request and determinations shall be transmitted to the Interim Joint Committee on Appropriations and Revenue prior to the implementation of the revision of the allotment.

SECTION 8. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

No state agency entitled to federal funds which would represent one hundred percent (100%) of the cost of a program in which the state participates shall decline to accept or receive that entitlement without notification to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

SECTION 9. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

In the event that any authorized capital construction or equipment purchase projects are canceled, or if conditions imposed by any branch budget bill are not met, any appropriated general or road fund debt service for those projects shall remain unallotted and lapse to the credit of the respective surplus account. In the event that General or road fund appropriated debt service is more than is required due to favorable interest rates, refinancing, or timing variances, the excess debt service in each fiscal year shall remain unallotted and lapse to the credit of the respective surplus account.

SECTION 10. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Any branch budget bill enacted by the General Assembly shall be enacted so that each section, each subsection, and each appropriation sum by specified fund or funds accounts shall be a separate and specific appropriation and law. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained in that branch budget bill.

SECTION 11. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Any appropriation in any branch budget bill and any other enactment by the General Assembly which contains an appropriation provision for the same purpose and in the same amount shall be construed as duplicate sums, and no additional moneys shall be provided for the duplicate appropriations. Questions of interpretation of duplicate appropriations shall be determined as prescribed by this chapter.

SECTION 12. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Totals and subtotals given within any branch budget bill and any appropriation provision in any other enactment are provided as a convenience and shall not constitute appropriations of funds. If a total or subtotal conflicts with the sum of the appropriation figures of which it consists, the amounts of the individual appropriations shall control. If a conflict of this nature arises, either as a result of an inadvertent error in initial entry of a total or subtotal or through an amendment to any of its component appropriations, the director of the Legislative Research Commission shall apprise the reviser of statutes in writing of the existence of and reason for the variation and of the correct amount of the total or subtotal. If the requested change is within the scope of this section, the reviser of statutes shall cause that corrected total or subtotal to be substituted in the Acts and journals of the General Assembly and in the Kentucky Revised Statutes.

Section 13. KRS 13A.220 is amended to read as follows:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file the original and five (5) copies of a proposed administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) A proposed amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of a proposed administrative regulation shall be as follows:

(a) A proposed administrative regulation shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches and shall be double-spaced. Copies of the proposed administrative regulation may be mechanically reproduced;

(b) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the proposed administrative regulation;

(c) The cabinet, department and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(Proposed Amendment)" or "(Amended After Hearing)," whichever is applicable. If a proposed administrative regulation is new, the notation shall read "(Proposed Administrative Regulation)";

(d) The notation shall be followed by the number and title of the proposed administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new proposed administrative regulation;

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list any statutes and other enactments, including ***any branch budget bills*** [~~appropriation acts~~] or executive orders, to which the proposed administrative regulation relates or which shall be affected by the proposed administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the proposed administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the proposed administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of a proposed administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.

(b) The authorizing signature of the administrative body promulgating the proposed administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the proposed administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270.

(e) The name of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

Section 14. KRS 13A.222 is amended to read as follows:

(1) In a new proposed administrative regulation, there shall be no underlining or bracketing.

(2) In all proposed amendments to administrative regulations, the proposed new words shall precede the proposed deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all proposed new words; and

(b) Place the proposed deleted words in brackets and strike through these words.

(3) (a) No administrative regulation shall be amended by reference to a section only. A proposed amendment shall contain the full text of the administrative regulation being amended.

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed in the first section of a proposed administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of a specific chapter of the Kentucky Administrative Regulations Service. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

2. To avoid repetition of a phrase; or

3. To limit or extend the provisions of a proposed administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	—
At the time	when
And the same hereby is	is
Either directly or indirectly	—
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be	

construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

(l) Unless the authority for an administrative regulation is an appropriation ***provision*** ~~[act]~~ that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of a proposed administrative regulation shall be cited. If an act has not been codified at the time a proposed administrative regulation is promulgated, or if the authority is ***any branch budget bill*** ~~[an appropriation act]~~, the citation shall be as follows: "Acts (year), Chapter (chapter number), Section (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.

Section 15. KRS 45.246 is amended to read as follows:

The draft ***branch budget bills and draft bills including an appropriation provision,*** ~~[appropriation act or acts]~~ and the biennial highway construction act or acts submitted to the General Assembly by the Governor, and the act or acts enacted by the General Assembly, shall comply with the provisions of KRS 45.245 to 45.248. Expression of general exclusion including, but not limited to, "any act or statute to the contrary notwithstanding," and "the provisions of any other law notwithstanding" shall not be effective as an exemption from the provisions of KRS 45.245 to 45.248. Exemptions from the provisions of KRS 45.245 to 45.248 shall include the specific projects exempted.

Section 16. KRS 45.351 is amended to read as follows:

(1) Every state administering agency shall submit any block grant application for the following fiscal year to the Legislative Research Commission no less than ninety (90) days prior to the date of submission, as required by federal law, of the block grant application to the federal administering agency or no less than ninety (90) days before the state administering agency elects to submit the block grant application to the federal administering agency.

(2) Each state administering agency shall, upon request of the Commission, make available to the Commission all background data and supporting information related to each block grant application under review by the Commission as will enable the Commission to perform its functions in an informed and efficient manner.

(3) Each block grant application submitted by the state administering agency to the Legislative Research Commission shall specify the proposed use and distribution of the block grant and other funds to be allocated by the state administering agency to programs and services; and in addition, each application shall specify:

(a) Programmatic and other requirements applicable to the receipt and expenditures of block grant and other funds, including state matching funds, specified in the application, and the restrictions imposed on the use of these funds;

(b) Whether the block grant and other funds included in the application have been included specifically in an appropriation ***provision*** or ***any branch budget bill*** ~~[appropriation act]~~ enacted by the General Assembly in anticipation of such application;

(c) Whether the funding is one-time, recurring or continuing;

(d) What costs will accrue to the state if federal funds diminish or are cut, and whether a budget reduction plan has been prepared for such contingency;

(e) Whether the programs and services to be provided under the block grant are mandated by the laws of the Commonwealth;

(f) Whether the programs and services to be provided under the block grant are those which the Commonwealth currently administers and funds;

(g) The agencies expected to provide the services including whether such agencies are public or private or state or local;

(h) The manner in which the allocation of funds will be targeted to need;

(i) Geographic areas to be served by the programs and services;

(j) Standards of eligibility for services;

(k) The criteria and method that will be used by the state administering agency to distribute the block grant funds;

(l) Whether and how block grant funds would be transferred from one (1) block grant to another and the amount of the transfer;

(m) The proportion of the block grant funds to be used for administrative costs; and

(n) Estimated receipt of federal funds applied for by block grant.

Section 17. KRS 45.353 is amended to read as follows:

(1) The Commission shall refer each block grant application received to the designated review body for review and consideration.

(2) The designated review body shall review and consider each block grant application according to the following standards and criteria, and shall make an affirmative finding of fact that:

(a) Except as provided in paragraph (b) of this subsection, block grant and other funds specified in the application have been included in an appropriation ***provision*** or ***any branch budget bill*** [~~appropriation act~~] enacted by the General Assembly in anticipation of such application;

(b) Any excess in the total amount of block grant funds sought over the total amount of such funds anticipated and included in an appropriation ***provision*** or ***any branch budget bill*** [~~appropriation act~~], has been included in a surplus expenditure plan approved by the General Assembly;

(c) A budget reduction plan specifying programs and services to be eliminated or to be reduced in scope if federal funding diminishes or is cut, has been included;

(d) The budget reduction plan does not propose to increase the ratio of state funds to federal funds if federal funding diminishes, or is cut;

(e) Block grant and other funds to be provided under the application are fairly and equitably distributed among those programs, services or recipients eligible for block grant funding;

(f) Block grant and other funds to be provided under the application are not to be used to fund programs or services that would duplicate or supplant existing programs or services funded by the private sector;

(g) The intended uses of block grant and other funds specified in the application are in compliance with the applicable federal and state laws pertaining to such block grant funds; and

(h) The amount of block grant and other funds to be retained by the state administering agency for administrative purposes does not exceed an amount allowable under federal law.

Section 18. KRS 45.359 is amended to read as follows:

(1) If any other section of KRS 45.351 to 45.358 is declared unconstitutional, any other statute to the contrary notwithstanding, no block grant money received from the United States government shall be spent or allocated unless appropriated by the General Assembly in regular or special session.

(2) This section shall supersede all statutes other than KRS 45.351 to 45.358 and ***any branch budget bills*** [~~all appropriation acts~~] with respect to the expenditure of federal block grant funds and any statute in conflict herewith is repealed to the extent of the conflict.

Section 19. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;
2. The justification for the project;
3. Its estimated completion date;
4. The total estimated cost of completing the project;
5. The estimated cost of the project during the biennium;
6. The recommended sources of funds for the entire project; and
7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each

branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;
2. The justification for the purchase;
3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;
4. The recommended sources of funds; and
5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted for the current biennium, subject to the following

conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in ***any branch budget bill*** ~~[the appropriation acts]~~, ***statutory*** budget memorandum, and biennial budget report, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;
4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;
5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;
6. Total expenditure on the project or major item of equipment;
7. The current estimated completion cost, including the amount required for annual inflation; and
8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 20. KRS 45.765 is amended to read as follows:

The draft ***branch budget bills*** [~~appropriation acts~~] submitted to the General Assembly, and the ***branch budget bills*** [~~appropriation acts~~] enacted by the General Assembly, shall comply with the provisions of KRS 45.750 to 45.810. Expressions of general exclusion, including but not limited to, "any act or statute to the contrary notwithstanding," and "the provisions of any other law notwithstanding," shall not be effective as an exemption from the provisions of KRS 45.750 to 45.810. Exemptions from the provisions of KRS 45.750 to 45.810 shall include the specific projects exempted.

Section 21. KRS 45.780 is amended to read as follows:

(1) There is created within the capital construction fund the emergency repair, maintenance, and replacement account. The account shall consist of moneys appropriated to the fund by the General Assembly.

(2) The Finance and Administration Cabinet may transfer money from the emergency repair, maintenance, and replacement account to the allotment account of an emergency repair, replacement, or maintenance project, for expenditure thereon, even though the specific project is not included in ***any branch budget bill*** [~~the appropriation acts~~], ***statutory*** budget memorandum, and biennial budget report enacted for that biennium. The Finance and Administration Cabinet shall report each transfer, including the necessity, purpose, and amount of the transfer, to the Capital Projects and Bond Oversight Committee not later than thirty (30) days after the transfer.

Section 22. KRS 45.810 is amended to read as follows:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review and recommendation. The Turnpike Authority shall be exempt from this review.

(2) The Capital Projects and Bond Oversight Committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the ***branch budget bill*** [~~appropriations act~~].

(3) If the committee does not recommend a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the project shall be referred to the secretary of the Finance and Administration Cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the secretary of the Finance and Administration Cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

Section 23. KRS 45.814 is amended to read as follows:

Prior to the issuance of the revenue bonds or notes authorized by ***a branch budget bill*** [~~an appropriations act~~], the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all these persons, bond counsel, and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this section shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

Section 24. KRS 48.111 is amended to read as follows:

(1) The Governor shall include in the executive branch budget recommendation and in the draft ***branch budget bill*** [~~appropriations act~~] for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars ($200,000).

(2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar ($200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease; and

4. The recommended sources of funds.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The ***branch budget bill*** [~~appropriations act~~] for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.

(4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars ($200,000) shall be executed unless the lease has been identified and included in the ***branch budget bill*** [~~appropriations act~~]. The ***branch budget bill*** [~~appropriations act~~] for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.

(5) A lease with an annual rental cost exceeding two hundred thousand dollars ($200,000) may be authorized even though it is not specifically listed in the biennial budget report and ***branch budget bill*** [~~appropriations act or acts~~], subject to the following conditions and procedures:

(a) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(4) shall apply; or

(b) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and

2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and

3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.

(6) (a) Prior to final authorization of a lease pursuant to paragraph (b) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease;

4. The source of funds; and

5. Whether the requirements of paragraph (b) of subsection (5) of this section have been met.

(b) Within thirty (30) days after the report has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.

(c) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

1. Revise the proposed lease authorization to comply with the objection of the committee; or
2. Cancel the proposed lease authorization; or
3. Determine to proceed with the proposed lease authorization disapproved by the committee.

(d) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (c) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(e) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.

(f) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

Section 25. KRS 56.440 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the State Property and Buildings Commission;

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto;

(3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery, or devices for the purpose of establishing, developing, or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only (except for industrial development projects) if used or to be used by the Commonwealth of Kentucky or one (1) of its departments or agencies (not including independent municipal corporations or political subdivisions);

(4) "Building project" includes the acquisition of any real estate and the acquisition, construction, reconstruction, and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities, and furnishings of a permanent nature for buildings; the purchase and installation initially of movable equipment, furnishings, and appurtenances necessary to make a building operable; and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one (1) of its departments or agencies, not including any independent municipal corporation or political subdivision, or any other capital outlay program authorized by ***any branch budget bill*** [~~appropriations acts~~] or other legislation;

(5) "Industrial development project" means and includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of such real estate for conveyance to or lease to industrial entities to be used for manufacturing, processing, or assembling purposes, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries, and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities, off-site construction of utility extensions to the boundaries of such real estate, construction and installation of buildings, including buildings to be used for worker training and education, rail facilities, roads, sidewalks, curbs and other improvements to such real estate necessary to its manufacturing, processing, or assembling use by industrial entities; provided that an industrial entity must have agreed with the commission, prior to the financing of an industrial development project, to develop, in conjunction with such industrial development project, manufacturing, processing, or assembling facilities satisfactory to the commission;

(6) "Industrial entity" means any corporation, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, or assembling facility on the site of an industrial development project financed pursuant to this chapter;

(7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount of money which is equal to all tax revenues received by the Commonwealth, as taxing entity, during such fiscal year in respect of an industrial development project and improvements and equipment thereon and the products thereof, and activities carried out by the occupants and users of such industrial development project, minus an amount equal to all tax revenues received by the Commonwealth, as taxing entity, in respect of the site of the industrial development project and the same type of taxable properties and activities during the fiscal year immediately preceding the fiscal year during which construction of the improvements undertaken by an industrial entity as a result of the financing of such industrial development project commenced. Incremental taxes shall include such tax revenues as state corporate income taxes, state income taxes paid by employees of manufacturing, processing, and assembling facilities developed on the site of an industrial development project, state property taxes, state corporation license taxes, and state sales and use taxes, but shall not include any taxes

levied specifically for educational purposes;

(8) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state but which is not an independent municipal corporation or political subdivision;

(9) "Cabinet" means the Finance and Administration Cabinet;

(10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite;

(11) "Asbestos-containing material" means any material which contains more than one percent (1%) asbestos by weight; and

(12) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

Section 26. KRS 154.12-100 is amended to read as follows:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

- (a) Potential job creation or job retention;
- (b) Degree of public or private and local involvement;
- (c) Degree and conditions of project payback; and
- (d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the Capital Projects and Bond Oversight Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) The Kentucky General Assembly hereby finds that encouraging development of new markets for recycled products in order to extend landfill capacity in the Commonwealth is an important economic development strategy. Beginning with February 26, 1991, the Cabinet for Economic Development shall set as a target a minimum of twenty percent (20%) of the funds available to the bond program for funding projects which create or expand markets for materials recovered or diverted from the solid waste stream notwithstanding the direct number of jobs to be created or retained by such projects.

(5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in ***a branch budget bill*** ~~[an appropriations act]~~. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the board, and the State Property and Buildings Commission, under the provisions of KRS 56.450.

(6) Following the approval by the board and the State Property and Buildings Commission, the project shall be presented by the secretary of the Cabinet for Economic Development with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(7) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(8) The Cabinet for Economic Development shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

(9) The secretary of the Cabinet for Economic Development shall provide semiannual reports to the Interim Joint Committee on Agriculture and Natural Resources on the programs carried out by the cabinet to promote market development for recycled products. In the semiannual reports, the secretary shall cite specific recycling-related projects and investments made under the economic development bond program and other programs within the cabinet's jurisdiction.

Section 27. KRS 175.780 is amended to read as follows:

(1) In order to provide for the construction, reconstruction, and relocation of economic development road projects, the authority is hereby authorized and empowered, subject to the limitations contained in the biennial branch budget bill,

under and pursuant to the terms and provisions of a written agreement or agreements with the cabinet, to construct, reconstruct, relocate, finance, and operate economic development road projects, to lease such projects to the cabinet, and to issue economic development road revenue bonds or notes of the authority to finance such projects. In the planning, construction, and financing of any economic development road project, the authority and the cabinet shall, subject to the provisions of KRS 175.750 to 175.810, have and use all authority, procedures, and rights provided by the provisions of KRS 175.410 to 175.690, inclusive.

(2) Subject to the limitations contained in the biennial ***branch budget bills*** [~~appropriation acts~~], the turnpike authority is hereby authorized to issue revenue bonds or notes in the amount of six hundred million dollars ($600,000,000), exclusive of any costs incurred in the issuance of the bond or notes, amounts necessary to fund a debt service reserve fund, or capitalized interest on the bonds or notes, or both, for the purpose of financing economic development road projects. The projects to be financed by these bonds or notes shall be the following projects limited to the costs established by this subsection:

	Route	Total Project Cost
(a)	US-60	$ 39,250,000;
(b)	US-68	$174,915,000,

the projects authorized by this paragraph shall be for the segments of US-68 from Bowling Green to Cadiz as submitted by the Transportation Cabinet in the 1990 Highway Construction Plan, except that funding shall be used for completion of the southern corridor of the US-68 By-pass in Christian County;

(c)	US-127	$139,560,000;
(d)	US-119, Letcher County, Pine Mountain Section	$ 5,500,000;
(e)	US-460	$ 11,500,000;
(f)	AA-HWY	$114,355,000;
(g)	US-25E	$ 52,950,000;
(h)	US-23	$161,700,000.

The authority may expend funds in excess of the total project cost, but shall not exceed the total cost by more than ten percent (10%). If any route is completed at a cost less than the amount specified by this subsection, the authority shall utilize the remainder of the funds for the sole purpose of completion of projects as specified in this subsection regardless of whether project costs exceed the ten percent (10%) requirement.

(3) The proceeds of the bonds issued under this authorization shall be used solely for the payment of the cost of the economic development road projects for which these bonds shall have been issued, as provided in subsection (2) of this section. The authority shall provide this restriction in the proceedings and preliminary documents authorizing the issuance of the bonds and in the trust indenture securing the same. Any refunding of such bonds by the authority shall also provide such restriction. Any proceeds of the bonds issued under this authorization remaining after the completion of the projects for which these bonds shall have been issued shall be transferred to the bond service account.

(4) (a) Prior to the issuance of the revenue bonds or notes authorized by this section, the turnpike authority shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this paragraph, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

(b) The costs required to be furnished under the provisions of paragraph (a) of this subsection shall not include the payment of wages or expenses to full-time, permanent employees of the Commonwealth of Kentucky.

Section 28. KRS 196.710 is amended to read as follows:

(1) The director shall award grants to community corrections programs in accordance with the policies established by KRS 196.700 to 196.735 and in accordance with any laws made for that purpose, including ***any branch budget bill*** [~~appropriations acts~~] and ***appropriation*** provisions [~~in appropriations acts~~], and shall adopt administrative regulations for the implementation, operation, and monitoring of community corrections programs.

(2) Grants shall be awarded by the director to community corrections programs whose community corrections program plans meet the requirements set forth in KRS 196.720 and which in the director's judgment promise to meet the goals set forth

in KRS 196.700 to 196.735. Grants shall be awarded to encourage a range of services in each jurisdiction.

(3) Grants may be awarded only to programs or agencies which have established community corrections boards as provided in KRS 196.725 unless the director determines that the program or agency is governed by a board which will serve the same functions as described in KRS 196.700 to 196.735, and that establishment of a new or additional board as described in KRS 196.725 would impose an administrative burden upon or pose a conflict of interest for the program or agency.

(4) Grants shall not be awarded to programs that have failed to accomplish the purposes set forth in KRS 196.705 and that show no promise of doing so in the future, as determined pursuant to KRS 196.735.

(5) Preference in funding may be given to areas of the state in which programs and services do not exist or are largely inadequate.

Section 29. KRS 230.217 is amended to read as follows:

(1) There is created in the State Treasury and accounting system, for the use and benefit of the commission, a trust and revolving fund, to be known as the "Breeders' Award Fund," consisting of moneys allocated to the fund under the provisions of KRS 230.380(9) and subsection (3) of this section.

(2) The breeders' award fund shall be administered and maintained by the Breeders' Award Committee, a standing committee of the commission, comprised of five (5) commission members: the chairman of the commission, the vice chairman of the commission, and three (3) at-large members of the commission appointed by the chairman for one (1) year terms. As soon as practicable after the close of each fiscal year, the Breeders' Award Committee shall disburse to thoroughbred breeders and stallion owners all moneys in the breeders' award fund on terms and based on criteria determined by the full commission and promulgated by administrative regulation. The amounts of all disbursements and the identities of all recipients of disbursements shall be reported to the full commission at the first regularly scheduled meeting succeeding the disbursements. Notwithstanding the foregoing, the committee shall, prior to making any disbursements to individual breeders, make the following allocations:

(a) Three percent (3%) of all moneys on deposit in the breeders' award fund to the commission, which shall be used by the commission for purses at harness racing events at county fairs within the Commonwealth of Kentucky that have been licensed and approved by the commission; and

(b) Seven percent (7%) of all moneys on deposit in the breeders' award fund to the Kentucky standardbred development fund.

(3) Effective July 1, 1993, the breeders' award fund shall be guaranteed a balance of three million, seven hundred fifty thousand dollars ($3,750,000) per year. By July 15 of each year, the Revenue Cabinet shall have calculated the amount of revenue deposited in the fund during the previous fiscal year, and, if commissions from simulcast facilities are not sufficient to ensure the prescribed funding level, the difference shall be deposited in the breeders' award fund from a general fund appropriation to the commission subject to conditions set forth in the ***branch budget bill*** [~~appropriations act~~]. The Revenue Cabinet shall separately account for and report the trust and revolving fund receipts received under this provision.

Section 30. KRS 18A.1132 is amended to read as follows:

(1) Prior to a layoff of state employees in the executive branch, required by a projected or actual reduction in tax receipts contemplated under the provisions of subsections (1) and ***(6)***[~~(5)~~] of KRS 48.130, each cabinet shall prepare a lay-off plan that complies with the provisions of KRS 18A.113 and this section.

(2) Each lay-off plan shall provide that a layoff of state employees shall occur only after all other cost saving measures are taken and have failed to alleviate the projected or actual deficit. These measures shall be specified in the plan, in detail, and shall include but not be limited to:

(a) A hiring freeze of all types of appointments;

(b) A reduction or delay of expenditures that would not prevent the provision of services required by law;

(c) Consolidation of offices and job duties that would not prevent the provision of services required by law;

(d) Transfer of funds as provided by the budget reduction plan enacted pursuant to KRS Chapter 48;

(e) Transfer of funds appropriated for or allotted to vacant positions as provided by the budget reduction plan provided for by KRS 48.130, unless it is certified that the positions are essential and cannot be filled in the period during which layoffs are to occur by transfer of existing employees of the appointing authority;

(f) The filling of vacancies and promotions from within the cabinet; and

(g) Transfers of employees within the cabinet as provided by KRS 18A.1131(3) and (4).

(3) Each cabinet shall submit:

(a) Its lay-off plan; and

(b) A list of employees who would remain subject to layoff after the implementation of cost-saving measures;

to the commissioner and to the secretary of the Finance and Administration Cabinet for review. Upon approval by the secretary, the lay-off plans shall be submitted to the Governor for approval.

(4) Upon approval of the plan by the Governor, the commissioner shall attempt to transfer employees as provided by KRS 18A.1131(4)(b). Employees who cannot be so transferred may be laid off.

(5) If no position is available to an employee subject to layoff under the procedures established by this section, the employee shall be notified in writing that he is to be laid off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employees.

(6) When the hiring freeze is ended, laid-off employees shall be hired before any applicant or eligible except laid-off employees already on such registers.

Section 31. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, and joint stock companies;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign

government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions, and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year; [~~and~~]

(38) "City" includes town***; and***

(39) Appropriation-related terms are defined as follows:

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in an executive, judicial, or legislative branch budget bill as provided for in KRS Chapter 48.

Section 32. The following KRS section is repealed:

446.085 Repeal or amendment in statutes by budget bill prohibited – Exception.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the three day posting requirement be waived on **SB 287**. Agreed.

Representative Bentley moved that the vote by which **HB 929** was defeated be reconsidered and it be placed in the Orders of the Day.

On the roll call to reconsider the vote by which **HB 929** was defeated and placed in the Orders of the Day, the vote was **Yeas 41**–Adkins, Barrows, Bentley, Bondurant, Bowling, Bruce, Burch, Callahan, L. Clark, P. Clark, Clarke, Crenshaw, Cyrus, Deskins, Fox, Gedling, Geveden, Gray, Hatcher, Kerr, Lee, Long, Maricle, Marzian, Mason, McElroy, Morris, Palumbo, Rapier, Richards, Riggs, Scorsone, Scott, Shacklette, Simpson, Stacy, Stengel, Stumbo, Trapp, Wayne, Yates. **Nays 32**–Adams, Allen, Altman, Arnold, Ballard, Bryant, Buis, Cave, Coleman, Collins, Damron, Donnermeyer, Farley, Farrow, Gee, Graham, Hampton, Heleringer, Johnson, Keith, Lile, Mullinix, Napier, Nunn, Reinhardt, Ridley, Riner, B. Smith, Treesh, Turner, Walton, Zimmerman.

The motion to reconsider the vote by which **HB 929** was defeated and placed in the Orders of the Day was adopted.

Representative Zimmerman moved the adoption of the following **Legislative Citation No. 111**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its congratulations to Crestwood Elementary School, Oldham County, Kentucky, in recognition of the nomination for being a Blue Ribbon School. Crestwood Elementary School has upheld a Blue Ribbon attitude toward education since the school's opening day. To be nominated as a finalist for The Blue Ribbon Award this fall is a testament to the unflagging dedication of faculty, students and parent volunteers. The entire membership joins Representative Jim Zimmerman in commending Crestwood Elementary School for its nomination as a Blue Ribbon School.

Representative Barrows moved the adoption of the following **Legislative Citation No. 113**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby celebrates the 100th Birthday of Nettie Gardner Johnson on March 16, 1994. The entire membership joins Representative Joe Barrows and Representative C. M. "Hank"

Hancock, your family and dearest friends in extending its very best birthday wishes to the great Commonwealth's most distinguished citizen and beloved mother, Nettie Gardner Johnson.

Representative Cave moved the adoption of the following **Legislative Citation No. 110**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to George Birk in recognition of his achievement as Eagle Scout. The integrity, determination, and dedication to community service has earned you scouting's highest honor. The many admirable qualities you possess are exemplary of the leaders who will guide America in the future. The entire membership joins Representative Stan Cave in extending its best wishes on this memorable occasion.

Representative Gray moved that the rules be suspended to withdraw **HB 627**. Agreed.

Representative Geveden moved that the rules be suspended to withdraw **HB 642**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills under rules previously suspended: **HB 311**, Representative Crenshaw; **HB 843**, Representative Callahan; **HB 875**, Representative Callahan, Lear; **HB 886**, Representative Graham.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 726**. Agreed.

Representative Bondurant moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bondurant moved that she be recorded as voting "yea" on **HCR 84**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "nay" on **HB 647**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that his vote be changed from "yes" to "abstain" on **HB 481**. Agreed.

Representative French moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative French moved that he be recorded as voting "nay" on **HB 647**. Agreed.

Representative Altman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Altman moved that his vote be changed from "nay" to "yea" on **HB 810**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that his vote be changed from "nay" to "yea" on **HB 810**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **HB 390**. Agreed.

Representative Hatcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hatcher moved that he be recorded as voting "yea" on **HB 571**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that he be recorded as voting "yea" on **HB 681** . Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that he be recorded as voting "yea" on **HB 538**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that his vote be changed from "nay" to "yea" on **HB 390**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that his vote be changed from "yea" to "nay" on **HB 890**. Agreed.

Representative Sanders moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sanders moved that he be recorded as voting "yea" on **HB 190**. Agreed.

Representative Altman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Altman moved that he be recorded as voting "yea" on **HB 538**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 556**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that his vote be changed from "nay" to "yea" on **HB 390**. Agreed.

Representative Zimmerman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Zimmerman moved that he be recorded as voting "nay" on **HB 647**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 481, HB 760, HB 904** and **HB 538**. Agreed.

Announcements

The Clerk announced the following meetings:

Natural Resources and Environment, 1:30 p.m., March 16, 1994

Business Organizations and Professions, upon adjournment, Room 125

Capital Caucus, upon adjournment, House Chambers

Judiciary, 6:00 p.m., March 15, 1994

Cities, March 15, 1994, canceled

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 16, 1994.

On the roll call the vote was **Yeas 73**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Bondurant, Bowling, Brown, Bryant, Callahan, Cave, L. Clark, P. Clark, Clarke, Collins, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hatcher, Johnson, Keith, Kerr, Lee, Lewis, Lindsay, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Nelson, Nesler, Noland, Northup, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Zimmerman. **Nays 4**--Hancock, LeMaster, Lile, Scorsone.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 16, 1994

FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend David Hilton, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Lyne.

Senate Message

Announcing passage of **SB 213, SB 245, SB 256, SB 308, SCR 74** and **HB 401**. Message received on **HB 203**: The Senate has passed **HB 203** by way of Committee Substitute, Senate Committee Amendment and Senate Floor Amendments and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 15, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Harper moved that the rules be suspended to introduce guests. Agreed.

Representative Maricle moved that floor privileges be granted to a former member. Agreed.

Representative Gray moved that floor privileges be granted to a constituent. Agreed.

Floor Amendments

Floor Amendment No. 8 to **SB 62**, by Representative Coleman:

On page 174, line 19, after "education", by adding the following:

"***including one (1) representative from a private college or university offering an approved teacher preparation program***".

Floor Amendment No. 5 to the Committee Substitute to **HB 302**, by Representative Noland:

On page 8, line 9, by deleting the amount "6,171,700" and inserting the amount "6,171,800"; and by deleting the amount "6,173,400" and inserting the amount "6,173,500"; and

On page 8, line 12, by deleting the amount "44,609,900" and inserting the amount "44,610,000"; and by deleting the amount "44,536,600" and inserting the amount "44,536,700"; and

On page 9, after line 1 and before line 2, by adding the following: "Included in the above General Fund appropriation is $100 in each fiscal year to support the Capital City Rescue Squad in assistance during emergency conditions or other events which facilitate the operations of state government during these times."; and

On page 18, line 19, by deleting the amount "167,927,300" and inserting the amount "167,927,400"; and by deleting the amount "180,795,400" and inserting the amount "180,795,500"; and

On page 18, line 22, by deleting the amount "292,591,500" and inserting the amount "292,591,600"; and by deleting the amount "305,105,600" and inserting the amount "305,105,700"; and

On page 191, line 12, by deleting the amount "4,802,025,100" and inserting the amount "4,802,025,200"; and by deleting the amount "5,080,865,200" and inserting the amount "5,080,865,300"; and

On page 191, line 17, by deleting the amount "11,389,650,500" and inserting the amount "11,389,650,600"; and by deleting the amount "11,889,063,100" and inserting the amount "11,889,063,200"; and

On page 192, line 8, by deleting the amount "4,846,446,100" and inserting the amount "4,846,446,200"; and by deleting the amount "5,089,290,200" and inserting the amount "5,089,290,300"; and

On page 192, line 17, by deleting the amount "12,247,332,400" and inserting the amount "12,247,332,500"; and by deleting the amount "12,137,524,100" and inserting the amount "12,137,524,200".

Floor Amendment No. 4 to **HB 110**, by Representative Damron:

On page 1, line 17, before the underlined semicolon by inserting the following: "***with a maximum group size of twelve (12)***";

On page 1, line 18, before the underlined semicolon by inserting the following: "***with a maximum group size of twenty (20)***";

On page 1, line 19, before the underlined semicolon by inserting the following: "***with a maximum group size of twenty-four (24)***";

On page 1, line 21, before the underlined semicolon by inserting the following: "***with a maximum group size of twenty-eight (28)***";

On page 1, line 22, before the underlined semicolon by inserting the following: "***with a maximum group size of thirty (30)***";

On page 1, line 24, before the underlined semicolon by inserting the following: "***with a maximum group size of thirty (30)***"; and

On page 2, line 1, before the underlined period by inserting the following: "***with a maximum group size of thirty (30)***".

Floor Amendment No. 6 to the Committee Substitute to **HB 302**, by Representative Barrows:

On page 181, after line 11 and before line 12, by adding the following:

"25. DEPARTMENT OF MEDICAID SERVICES

a. Non-Qualifying Disproportionate Share Program for Acute Care Hospitals: Notwithstanding the provisions of KRS 205.640, upon the recommendation of the Secretary of the Cabinet for Human Resources, and with the approval of the State Budget Director, the Cabinet for Human Resources is directed to pay acute care hospitals not otherwise qualified to participate in the disproportionate share program a sum not to exceed $200,000 each. These payments shall come from the medicaid benefits appropriation and shall not contain any federal matching funds. Any payment shall be reported to the Interim Joint Committee on Appropriations and Revenue."; and

Renumber accordingly.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Business Organizations and Profession: **SB 320**

Education: **SB 81, SB 343**

Judiciary: **SB 222**

State Government: **SB 80, SB 289, SB 344**

Report of Committees

The Committee on Rules reported that **SB 67, SB 152** and **SB 174** have been posted for passage in the Orders of the Day for March 16, 1994.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **SB 43**, by Representative Bowling:

On page 1, after line 16, by adding the following:

(5) For purposes of Section 6 of this Act, "convicted" shall refer to the date that the defendant appeared in court to plead guilty or the date that a verdict of guilty was returned by the jury.

Report of Committees (Continued)

The Committee on Business Organizations and Professions reported **HB 907, HB 911** and **HB 918** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 907, AN ACT relating to trade practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.030 is amended to read as follows:

(1) Except as provided in KRS 365.040, no person engaged in business within *the Commonwealth of Kentucky* [~~this state~~] shall sell, offer for sale or advertise for sale any article or product, or service or output of a service trade, at less than the cost thereof to *a* [~~such~~] vendor, or give, offer to give or advertise the intent to give away any article or product, or service or output of a service trade, for the purpose of injuring competitors and destroying competition.

(2) In establishing the cost of a given article or product to the distributor and vendor, the invoice cost of the article or product purchased at a forced, bankrupt or close-out sale, or other sale outside of the ordinary channels of trade, may not be used as a basis for justifying a price lower than one based upon the replacement cost as of the date of the sale of the article or product replaced through the ordinary channels of trade, unless the article or product is kept separate from goods purchased in the ordinary channels of trade and unless the article or product is advertised and sold as merchandise purchased at a forced, bankrupt or close-out sale or by means other than through the ordinary channels of trade, and the advertising states the conditions under which the goods were so purchased, and the quantity of the merchandise to be sold or offered for sale.

(3) *(a) As applied to production, "cost" is:*

1. The invoice or replacement cost of the raw materials, whichever is lower; or

2. The invoice or replacement cost of the raw materials, whichever is lower, plus "overhead," as defined in paragraph (d) of this subsection.

(b) As applied to distribution, "cost" is:

1. The invoice or replacement cost of the product to the distributor or vendor, whichever is lower; or

2. The invoice or replacement cost of the product to the distributor or vendor, whichever is lower, plus "overhead," as defined in paragraph (d) of this subsection.

(c) "Vendor" includes any person who performs work upon, renovates, alters, or improves any personal property belonging to another person.

(d) "Overhead" means labor and other costs of doing business, including rent, interest on borrowed capital, depreciation, selling costs, maintenance of equipment, delivery cost, credit losses, licenses, taxes, insurance, and advertising. "Overhead" shall not include that portion of overhead which is lower than a competitor's because of lawful competitive advantage. A competitive advantage may be pled and proved as an affirmative defense to an assertion of sales in violation of this section.

(4) Nothing in this section shall be construed to require a minimum mark-up or retention of price maintenance. Nor shall this section be interpreted or applied to restrict sales at prices which reflect legitimate competitive advantage [~~As applied to production, "cost" includes the cost of raw materials, labor and all overhead expenses of the producer. As applied to distribution, "cost" means the invoice or replacement cost, whichever is lower, of the article or product to the distributor and vendor plus the cost of doing business by the distributor and vendor. The "cost of doing business" or "overhead expense" means all costs of doing business incurred in the conduct of the business and must include without limitation the following items of expense: Labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, selling cost, maintenance of equipment, delivery cost, credit losses, all types of licenses, taxes, insurance and advertising. "Vendor" includes any person who performs work upon, renovates, alters or improves any personal property belonging to another person~~].

(5)[~~(4)~~] Where a person complained of as violating any of the provisions of this section is a member of a particular trade or industry that has an established cost survey for the locality and vicinity in which the offense is committed, the cost survey shall be competent evidence to be used in proving the costs of *the* [~~such~~] person *on whom the complaint is made*.

HB 911, AN ACT relating to real estate brokers and sales associates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person to act as a broker or real estate sales associate or to advertise or assume to act as a broker or sales associate within the Commonwealth of Kentucky, without a license issued by the Kentucky Real Estate Commission.

(2) A licensee who is *a buyer or prospective buyer,* an owner*,* or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.

(3) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may pay a commission to or split fees with a broker licensed outside of Kentucky who represents an out-of-state client.

(4) No sales associate licensed in Kentucky shall supervise another licensed sales associate or manage an office, except *as permitted in KRS 324.112* [~~by permission of the commission and when acting on the death of the principal broker~~].

(5) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court where the unlawful activity took place.

Section 2. KRS 324.090 is amended to read as follows:

(1) *All active licenses issued by the commission shall be effective until:*

(a) Suspension or revocation of the licensee's license;

(b) The license is placed in escrow pursuant to KRS 324.310;

(c) An affiliated licensee is discharged by or terminates his association with the principal broker pursuant to KRS 324.310;

(d) A change occurs in the licensee's principal business location or firm name;

(e) The licensee fails to pay the annual renewal fee and recovery fund fee;

(f) The licensee fails to purchase the mandatory errors and omissions insurance, including the premium tax on the errors and omissions insurance;

(g) The licensee fails to complete the mandatory continuing education requirements established in KRS 324.281; or

(h) The licensee fails to file with the commission, on forms provided by the commission, the annual renewal form completed and signed by the licensee. The annual renewal date for licensees shall be on March 31 of each year [~~Licenses shall expire on the thirty-first day of March of each year. The commission shall issue a new license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the annual fees required. No applicant for renewal shall change broker affiliation between March 1 through March 31~~].

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall failure of the mail.

(3) Any license not renewed at the end of the renewal year as prescribed by the commission shall automatically revert to expired status. The license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

Section 3. KRS 324.115 is amended to read as follows:

Every broker licensed under KRS 324.045 shall have and maintain a definite place of business in this state. Provided, however, that if the broker is a nonresident, *and the applicable law in his state of residency does not require an in-state place of business for out-of-state brokers,* it is not mandatory to maintain an active place of business in this state if a business place is maintained in the state of original licensure. *All nonresident brokers, who are required under this section to have a definite place of business in this state, shall have a broker or sales associate qualified under KRS 324.112 to manage that office.*

Section 4. KRS 324.330 is amended to read as follows:

(1) Notice in writing shall be given to the commission by each licensee of any change of principal business location, a change of firm name, sales associate's transfer from one principal broker to another, or a change of surname. The commission shall issue a new license for the unexpired period and shall charge the fee as provided in KRS 324.287(6) for effecting the change on its records. This section shall apply to both brokers and sales associates.

(2) The commission shall be notified of a change of a residence address within ten (10) days.

(3) A fee shall be assessed for certification of a licensee's status with the commission.

(4) Notice shall be given by each licensee to the commission that a felony charge has been filed against the licensee within forty-five (45) days of arraignment of the licensee. The notice shall state the identity of the parties to the action, the identity of the court where the action is filed, and the action number of the action.

HB 918, AN ACT relating to business entities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.1-220 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a)	Articles of incorporation	$ 40
(b)	Application for use of indistinguishable name	$ 20
(c)	Application for reserved name	$ 15
(d)	Notice of transfer of reserved name	$ 15
(e)	Application for registered name	$ 36
(f)	Application for renewal of registered name	$ 36
(g)	Corporation's statement of change of registered agent or registered office, or both	$ 10
(h)	Agent's statement of change of registered office for each affected corporation	$ 10
	not to exceed a total of	$1,000
(i)	Amendment of articles of incorporation	$ 40
(j)	Restatement of articles of incorporation	$ 40
(k)	Amended and restated articles	$ 80
(l)	Articles of merger or share exchange	$ 50
(m)	Articles of dissolution	$ 40
(n)	Articles of revocation of dissolution	$ 15
(o)	Reinstatement penalty following administrative dissolution	$ 100
(p)	Application for certificate of authority	$ 90
(q)	Application for amended certificate of authority	$ 40
(r)	Application for certificate of withdrawal	$ 40
(s)	Annual report	$ 15
(t)	Articles of correction	$ 20
(u)	~~[Application for]~~ Certificate of existence or authorization	$ 10
(v)	Any other document required or permitted to be filed by this chapter	$ 15
(w)	Agent's statement of resignation	No fee
(x)	Certificate of administrative dissolution	No fee
(y)	Certificate of reinstatement	No fee
(z)	Certificate of judicial dissolution	No fee
(aa)	Certificate of revocation of authority to transact business	No fee

(2) The Secretary of State shall collect a fee of ten dollars ($10) each time process is served on him under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(a) Fifty cents ($0.50) a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations.

Section 2. KRS 271B.1-400 is amended to read as follows:

In this chapter:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter.

(5) "Deliver" includes mail.

(6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" is defined in KRS 271B.1-410.

(8) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(9) "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(10) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(11) "Governmental subdivision" includes authority, county, district, and municipality.

(12) "Includes" denotes a partial definition.

(13) "Individual" includes the estate of an incompetent or deceased individual.

(14) "Means" denotes an exhaustive definition.

(15) "Notice" is defined in KRS 271B.1-410.

(16) "Person" includes individual and entity.

(17) "Principal office" means the office***,*** [~~(~~]in or out of this state***,***[~~)~~] so designated in ***writing with the Secretary of State*** [~~the annual report~~] where the principal executive offices of a domestic or foreign corporation are located.

(18) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(19) "Record date" means the date established under Subtitles 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed.

(20) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of KRS 271B.8-400 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(21) "Share" means the unit into which the proprietary interests in a corporation are divided.

(22) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(23) "State" when referring to a part of the United States, includes a state and Commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(24) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(25) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(26) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Section 3. KRS 271B.2-020 is amended to read as follows:

(1) The articles of incorporation shall set forth:

  (a) A corporate name for the corporation that satisfies the requirements of KRS 271B.4-010;

  (b) The number of shares the corporation is authorized to issue;

  (c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

  (d) The mailing address of the corporation's principal office; and

  (e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:

  (a) The names and mailing addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized;

2. Managing the business and regulating the affairs of the corporation;

3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

4. A par value for authorized shares or classes of shares; and

5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this chapter is required or permitted to be set forth in the bylaws; and

(d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;

2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;

3. For any vote for or assent to an unlawful distribution to shareholders as prohibited under KRS 271B.8-330; or

4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to KRS 271B.8-300.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 4. 271B.5-010 is amended to read as follows:

(1) Each corporation shall continuously maintain in this state:

(a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

(b)[~~(2)~~] A registered agent, who may be:

1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

2.[~~(b)~~] A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or

3.[~~(c)~~] A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 5. KRS 271B.10-020 is amended to read as follows:

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder action:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Secretary of State;

(4) ***To delete the mailing address of the corporation's initial principal office, if a statement containing the mailing address of the new principal office is on file with the Secretary of State;***

(5) To change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding;

(6)[~~(5)~~] To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name; or

(7)[~~(6)~~] To make any other change expressly permitted by this chapter to be made without shareholder action.

Section 6. KRS 271B.15-030 is amended to read as follows:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application shall set forth:

- (a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of KRS 271B.15-060;
- (b) The name of the state or country under whose law it is incorporated;
- (c) Its date of incorporation and period of duration;
- (d) The street address of its principal office;
- (e) The address of its registered office in this state and the name of its registered agent at that office; and
- (f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

(3) Unless the registered agent signs the application, the foreign corporation shall deliver with the application for certificate of authority the registered agent's written consent to the appointment.

Section 7. KRS 271B.15-070 is amended to read as follows:

Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

- (a) An individual who resides in this state and whose business office is identical with the registered office;
- (b) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or
- (c) A foreign corporation or foreign not-for-profit corporation authorized to transact business in this state whose business office is identical with the registered office.

(3) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 8. KRS 273.182 is amended to read as follows:

Each corporation shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

- (a) An individual who resides in this state and whose business office is identical with the registered office;
- (b) A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office; or
- (c) A foreign corporation or nonprofit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

(3) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 9. KRS 273.247 is amended to read as follows:

(1) The articles of incorporation shall set forth:

- (a) The name of the corporation;
- (b) The purpose or purposes for which the corporation is organized;
- (c) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets or dissolution or final liquidation;
- (d) The street address of the corporation's initial registered office and the name of its initial registered agent at that address;
- (e) The mailing address of the corporation's principal office;
- (f) The number of directors constituting the initial board of directors, and the names and mailing addresses of the persons who are to serve as the initial directors; and
- (g) The name and mailing address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in KRS 273.163 to 273.387.

(3) Unless its articles of incorporation provide otherwise, every corporation shall be presumed to have perpetual duration and succession in its corporate name.

(4) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, when a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

(5) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 10. KRS 273.2521 is amended to read as follows:

(1) The Secretary of State shall prescribe and furnish on request forms for:

(a) ~~[An application for]~~ A certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent;

(e) The annual report.

Use of these forms shall be mandatory.

(2) The Secretary of State shall prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter. Use of these forms shall be mandatory.

Section 11. KRS 273.361 is amended to read as follows:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of KRS 273.364;

(b) The name of the state or country under whose law it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The address of its registered office in this state and the name of its registered agent at that office; and

(f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or county under whose law it is incorporated.

(3) Unless the registered agent signs the application, the foreign corporation shall deliver with the application for certificate of authority the registered agent's written consent to the appointment.

Section 12. KRS 273.3641 is amended to read as follows:

Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office; or

(c) A foreign corporation or foreign nonprofit corporation authorized to transact business in this state whose business office is identical with the registered office.

(3) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 13. KRS 273.368 is amended to read as follows:

(1) In respect of the following documents, the fees to be collected by the Secretary of State for filing and issuing, when required by this chapter, shall be:

(a) Articles of incorporation and a certificate of incorporation, eight dollars ($8);

(b) Articles of amendment and a certificate of amendment, eight dollars ($8);

(c) Restated articles of incorporation and restated certificate of incorporation, eight dollars ($8);

(d) Articles of merger or consolidation and a certificate of merger or consolidation, eight dollars ($8);

(e) Articles of dissolution and certificate of dissolution, five dollars ($5);

(f) A statement of change of address of registered office or change of registered agent, or both, by the Secretary of State, five dollars ($5);

(g) A statement by a foreign corporation designating a resident process agent, by the Secretary of State, five dollars ($5);

(h) An annual report by a domestic corporation, by the Secretary of State, four dollars ($4);

(i) An annual report by a foreign corporation, by the Secretary of State, eight dollars ($8);

(j) ***Application for certificate of authority, forty dollars ($40)*** ~~[Certified copy of the articles of incorporation and existing amendments, by the Secretary of State, twenty five dollars ($25) as an original filing fee, and a recording fee of ten dollars ($10); ten dollars ($10) for recording subsequent amendments]~~; and

(k) Any other statement or report of a foreign or domestic corporation, eight dollars ($8).

(2) For recording any documents, as required by this chapter, the county clerk shall be entitled to the fees specified in KRS 64.012.

Section 14. KRS 273.357 is amended to read as follows:

The dissolution of a corporation either (1) by the filing of articles of dissolution with the Secretary of State, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in KRS 273.161 to 273.390~~[, or (3) by expiration of its period of duration,]~~ shall not take away or impair any remedy available to or against ***the*** ~~[such]~~ corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to ***the*** ~~[such]~~ dissolution if action or other proceeding thereon is commenced within two (2) years after the date of ***the*** ~~[such]~~ dissolution. Any ~~[such]~~ action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors, and officers ***may*** ~~[shall have power to]~~ take ~~[such]~~ corporate or other action ~~[as shall be]~~ appropriate to protect ***the*** ~~[such]~~ remedy, right, or claim. ~~[If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two (2) years so as to extend its period of duration.]~~

Section 15. KRS 362.407 is amended to read as follows:

Each limited partnership shall continuously maintain in this state:

(1) An office which may, but need not be, a place of its business in this state, at which shall be kept the records required by KRS 362.409 to be maintained; and

(2) An agent for service of process on the limited partnership, which agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

(3) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 16. KRS 362.415 is amended to read as follows:

(1) In order to form a limited partnership, a certificate of limited partnership shall be executed and filed with the Secretary of State. The certificate shall be in the form prescribed by the Secretary of State and shall set forth:

(a) The name of the limited partnership;

(b) The address of the office and the name and address of the agent for service of process required to be maintained by KRS 362.407;

(c) The name and the business address of each general partner;

(d) A mailing address for the limited partnership;

(e) The latest date upon which the limited partnership is to dissolve; and

(f) Any other matters the general partners determine to include therein.

(2) A limited partnership shall be formed at the time of the filing of the certificate of limited partnership with the Secretary of State or at any later time specified in the certificate of limited partnership, which shall be a date certain and shall not be later than the ninetieth day after the date it is filed, if, in either case, there has been substantial compliance with the requirements of this section.

(3) Unless the registered agent signs the certificate, the limited partnership shall deliver with the certificate of limited partnership the consent of appointment of the agent for service of process required to be maintained by KRS 362.407.

Section 17. KRS 362.497 is amended to read as follows:

(1) Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State one (1) original and one (1) exact or conformed copy of an application for registration as a foreign limited partnership, in the form prescribed by the Secretary of State, signed by a general partner and setting forth:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state:

(b) The state and date of its formation;

(c) The name and address of any agent for service of process on the foreign limited partnership. The agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process~~[,]~~ if the appointed agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;

(e) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

(f) The name and the business address of each general partner; and

(g) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

(2) The execution by a general partner of an application for registration as a foreign limited partnership, the execution of a certificate amending the application pursuant to KRS 362.503 and the execution of a certificate of cancellation pursuant to KRS 362.505 shall constitute an affirmation under the penalties of perjury that the facts stated there are true.

(3) Unless the registered agent signs the application, the foreign limited partnership shall deliver with the application the consent of appointment of the agent for service of process.

Section 18. KRS 362.409 is amended to read as follows:

(1) Each limited partnership shall keep, at the office referred to in KRS ***362.407(1)*** ~~[362.405(1)]~~, the following records:

(a) A current list of the full names and last known business, residence or mailing addresses of all partners, separately identifying in alphabetical order the general partners and the limited partners;

(b) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate was executed;

(c) Copies of the limited partnership's federal, state and local income tax returns and reports, if any, for the three (3) most recent years;

(d) Copies of any then effective written partnership agreement and of any financial statements of the limited partnership for the three (3) most recent years; and

(e) Unless contained in a written partnership agreement, a writing setting out:

1. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

2. The times at which, or events upon the happening of which, any additional contributions agreed to be made by each partner are to be made;

3. Any right of a partner to receive distributions, or of a general partner to make distributions to a partner, that includes a return of all or any part of the partner's contribution; and

4. Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

(2) Records kept under this section may be inspected and copied during ordinary business hours at the reasonable request, and at the expense, of any partner.

Section 19. KRS 362.417 is amended to read as follows:

(1) A certificate of limited partnership may be amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall be in the form prescribed by the Secretary of State and shall set forth:

(a) The name of the limited partnership;

(b) The date of filing the certificate of limited partnership; and

(c) The amendment to the certificate of limited partnership.

(2) (a) Within thirty (30) days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events, shall be filed:

1. The admission of a new general partner;
2. The withdrawal of a general partner;
3. The continuation of the business under KRS 362.487 after an event of withdrawal of a general partner;
4. A change in name of the limited partnership; or
5. A change in the address of the office or the name or address of the agent for service of process required to be maintained by KRS ***362.407*** [~~362.405~~].

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made, or that any arrangements or other facts described in the certificate have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

(c) A certificate may be amended at any time for any other proper purpose the general partners determine.

(3) If an amendment to a certificate is filed within the thirty (30) day period referred to in subsection (2) of this section, no person shall be liable because the amendment was not filed earlier.

(4) Unless otherwise provided in KRS 362.403 to 362.525 or in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the Secretary of State.

(5) A limited partnership may, if desired, integrate into a single instrument all of the provisions of its certificate of limited partnership which are then in effect and operative as a result of filing with the Secretary of State one (1) or more certificates of amendment and it may, at the same time, further amend its certificate of limited partnership.

(6) If the restated certificate of limited partnership merely restates and integrates, but does not further amend the certificate of limited partnership as theretofore amended, it shall be specifically designated in its heading as a "restated certificate of limited partnership." If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership as theretofore amended, it shall be specifically designated in its heading as an "amended and restated certificate of limited partnership". A restated, or amended and restated, certificate of limited partnership shall be executed and filed in the same manner as a certificate of amendment.

(7) Upon the filing of a restated, or amended and restated, certificate of limited partnership with the Secretary of State, or upon its future effective date or time as provided for therein, the initial certificate of limited partnership, as amended, shall be superseded. Thereafter, the restated certificate of limited partnership, including further amendments made thereto, shall be the certificate of limited partnership of the limited partnership.

Section 20. KRS 362.507 is amended to read as follows:

(1) ***A foreign limited partnership transacting business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.***

(2) The failure of a foreign limited partnership to register in this state shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(3)[~~(2)~~] A limited partner of a foreign limited partnership shall not be liable as a general partner of the foreign limited partnership solely by reason of the partnership's having transacted business in this state without registration.

(4)[~~(3)~~] A foreign limited partnership, by transacting business in this state without registration, shall appoint the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

The Committee on Education reported **HB 694, HB 740, HCR 105, SB 13, SB 53, SB 112,** with Committee Substitute attached thereto, **SB 131, SB 132, SB 133, SB 206, SB 247,** with Committee Amendment attached thereto, and **SJR 10** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 694, AN ACT relating to the management of high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) ***(a)*** The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated

managing organization or agency.

(b) If the organization or agency designated by the state board to manage interscholastic athletics sponsors post-season tournaments, tournament profits shall be distributed to the member schools participating in the tournament. The governing body of the managing organization or agency shall decide the formula for distributing the profits.

(c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity wrestling, soccer, and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The State Board for Elementary and Secondary Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity wrestling, soccer, and football for students who have not successfully completed the eighth grade.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

HB 740, AN ACT relating to licensing of colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.947 is amended to read as follows:

(1) The Council on Higher Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined herein shall be required to hold a license issued by the executive director of the Council on Higher Education under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education ***except as provided in this section***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

(5) An institution that clearly identifies itself as a bible college or bible institute and has not been licensed by the Council on Higher Education, may confer diplomas and other written evidences of proficiency or achievement other than associate, baccalaureate, master's, doctoral or other types of degrees and may continue to identify itself as a bible college if the institution:

- ***(a) Registers annually with the Council on Higher Education and is granted an exemption from licensing;***
- ***(b) Prominently discloses the statement that the institution is not licensed by the Commonwealth of Kentucky on transcripts, diplomas, or other written evidences of proficiency or achievement, and on promotional material or other literature intended for the public;***
- ***(c) Limits the course of instruction to religion or theology, or is operated by a church or religious organization and limits its instruction to preparation for service to churches or other religious organizations; and***
- ***(d) Confers only diplomas and other written evidences of proficiency or achievement that bear titles clearly signifying the religious nature of the instruction offered by the institution.***

HCR 105, A CONCURRENT RESOLUTION requesting that the State Auditor, in conjunction with the Office of Education Accountability, conduct a management audit of the Kentucky Department of Education.

WHEREAS, the Department of Education is charged with the supervision and administration of the system of common schools; and

WHEREAS, it is imperative that the Department of Education provide capable leadership, direction and support to the common schools throughout the process of education reform; and

WHEREAS, the Department of Education is in its fourth year of the implementation of the Kentucky Education Reform Act; and

WHEREAS, a management audit may provide useful information regarding the efficiency and operation of the Department of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly request pursuant to KRS 43.050 and KRS 7.410 that the State Auditor, in conjunction with the Office of Education Accountability, conduct a management audit of the Kentucky Department of Education. The purpose of the audit shall be to examine the relationships between the State Board for Elementary and Secondary Education and the Department of Education; between the Commissioner of Education and his staff; and between the Department of Education and the organizations it serves. The audit shall include, but not be limited to, the following issues:

(1) The extent to which these organizations are operating in accordance with the intent of the Kentucky Education Reform Act;

(2) The efficiency of the horizontal and vertical lines of communication within the Department of Education;

(3) The identification of internal issues including, but not limited to, organizational structure, reporting relationships, and compensation levels that may hamper efficient operations;

(4) The existence of objective response mechanisms to ensure that the Department of Education is receiving feedback from

district administrative and school personnel on the effectiveness of its support and direction;

(5) A determination if the addition of a Chief of Staff with appropriate duties and powers would significantly enhance operations.

Section 2. The audit shall be a qualitative and quantitative assessment of the functioning of the Department of Education. The audit shall be the basis for recommendations detailing any necessary corrective actions to insure the successful implementation of the Kentucky Education Reform Act.

Section 3. The State Auditor shall present a report of these recommendations to the Interim Joint Committee on Education no later than December 15, 1994, and submit the report to the State Board for Elementary and Secondary Education and the Commissioner of Education. The committee shall make recommendations pertaining to any necessary restructuring and redirecting of the Department of Education.

SB 13, AN ACT relating to the Kentucky Higher Education Assistance Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority administered programs, provided that no right of participation shall be deemed vested herein in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means ***a loan*** ~~[an obligation representing advances of money]~~ to an eligible borrower***,*** who is qualified under the federal act, ~~[evidenced by one (1) or more promissory notes,]~~ on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary ~~[to the extent of not less than eighty percent (80%) of the principal amount thereof]~~ under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document***,*** or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary ~~[to the extent of not less than eighty percent (80%) of the principal amount thereof]~~ under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(18) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(19) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(20) "Secretary" means the United States Secretary of Education.

(21) "Vocational school" means any public vocational school which is ***managed and controlled*** [~~accredited~~] by the [~~Kentucky~~] State Board ***for Adult and Technical*** [~~of~~] Education and which provides a course of study leading to the granting of a postsecondary ***certificate*** [~~degree~~] or diploma or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma or certificate.

(22) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 2. KRS 164.748 is amended to read as follows:

The board shall have the following powers, functions, and duties:

(1) To provide loan guarantees, upon [~~such~~] terms and conditions [~~as~~] the board may prescribe within the limitations provided by KRS 164.740 to ***164.770*** [~~164.785~~], and the federal act in respect of loans to eligible ***borrowers*** [~~students~~]. The board may require [~~such~~] additional security, including endorsers [~~as~~] it deems necessary and desirable and is not in contravention of the federal act. The purpose of ***the*** [~~such~~] loans shall be to assist [~~such~~] individuals in meeting the expense of their education.

(2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify [~~such~~] insured student loans for interest payments, reimbursement, reinsurance, and other benefits [~~as may be~~] available under the federal act to the authority.

(3) To issue loan guarantees in respect of loans made to eligible ***borrowers*** [~~students~~] by participating lenders, including the authority.[~~, provided, however, that~~] No eligible ***borrower*** [~~student~~] shall obtain an insured student loan from more than one (1) participating lender without prior approval by the board. [~~and provided, further, that~~] No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan [~~so~~] resulting shall be the subject of agreements pursuant to the federal act ***by which*** [~~whereby~~] the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.

(4) To ***promulgate*** [~~adopt rules and~~] regulations pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 [~~and 164.764~~] to 164.785.

(5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon [~~such~~] terms and conditions [~~as may be~~] agreed upon between the authority and the eligible lender, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

(6) To enter into contracts with eligible institutions, upon [~~such~~] terms and conditions [~~as may be~~] agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

(7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend ***them*** [~~the same~~], on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal or mixed, absolutely or in trust, and to hold, administer, and dispose of ***it*** [~~the same~~], on behalf of the authority and for any of its purposes.[~~; provided, however, that~~] The authority shall ***not*** [~~have no legal right to~~] make its debts payable out of any funds except those of the authority.

(8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, administrative costs, and related matters.

(9) To sue and be sued in the name of the authority and to plead and be impleaded***, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service***.

(10) To collect from individual borrowers ***loans made by the authority and*** insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect ***the*** [~~such~~] insured student loans.

(11) To gather information on all loans, scholarships, honorary scholarships, grants***,*** and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate ***the*** [~~such~~] information through ***the*** [~~such~~] methods of mass communication [~~as may be~~] necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.

(12) To request [~~such~~] reports from each eligible institution or eligible lender [~~as it deems~~] necessary for the effective performance of its duties and to publish ***the*** [~~such~~] information [~~as~~] it deems necessary.

(13) To approve, disapprove, limit, suspend***,*** or terminate the participation of***, or take emergency action to withhold authority funds and insured student loans from*** eligible institutions or eligible lenders in programs administered by the board, subject[~~, however,~~] to the provisions of the federal act and this chapter.

(14) To perform [~~such~~] other acts [~~as may be~~] necessary or appropriate to carry out effectively the purposes of the authority as provided by KRS 164.740 [~~and 164.764~~] to 164.785 ***and 164A.010 to 164A.380***.

(15) If any conflict exists between KRS 164.740 to ***164.770*** [~~164.764~~] and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act, including interest payments and reimbursement for insured student loans in default, ***to promulgate*** [~~the board is authorized and empowered to adopt rules,~~] regulations and policies consistent with the federal act not in derogation ***of***[~~, however, with~~] the Constitution and general laws of the Commonwealth.

(16) Except where specifically prohibited by law***, to*** [~~the authority may~~] secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source for purposes of verifying information submitted by any student and any student's parents, or others in loco parentis, in applying for or receiving assistance from any program administered by the authority.

(17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services necessary to the administration of the authority's insured student loan programs.

(18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation as required pursuant to KRS Chapter 164A.

(19) To issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to issues in dispute. This power may be exercised by the board or hearing officers designated by the board to conduct administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans in conducting the hearings. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.

(20) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.

(21) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

SB 53, AN ACT relating to Family Resource and Youth Services Centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of ***twenty-one (21)*** [~~sixteen (16)~~] members appointed by the Governor. The ***twenty-one (21)*** [~~sixteen (16)~~] members appointed shall include one (1) representative from each of the following agencies or groups***, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives***:

(a) Department of Education;
(b) Department for Employment Services of the Cabinet for Human Resources;
(c) Department for Health Services of the Cabinet for Human Resources;
(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;
(e) Department for Social Services of the Cabinet for Human Resources;
(f) Department for Social Insurance of the Cabinet for Human Resources;
(g) Justice Cabinet;
(h) Governor's Office;
(i) Workforce Development Cabinet;

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments; [~~and~~]

(p) Local community action agencies***; and***

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. ***By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997.*** The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include ***an*** [~~a five (5) year~~] effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 ***or similar program***;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a [~~five (5) year~~] schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter ***or*** until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, ***1997*** [~~1995~~], at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the State Board for Elementary and Secondary Education, the Governor, and the Legislative Research Commission.

(8) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 2. KRS 156.4977 is amended to read as follows:

(1) Beginning with fiscal year 1992 through fiscal year ***1997*** ~~[1995]~~, grants shall be awarded to eligible local school districts to implement or continue family resource and youth services centers as defined in KRS 156.497.

(2) Grant proposal instructions shall be developed by the Cabinet for Human Resources upon the recommendations of the Interagency Task Force on Family Resource and Youth Services Centers. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.

(3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Human Resources upon the recommendation of the task force. Proposal reviewers shall be selected by the secretary of the Cabinet for Human Resources and approved by the task force. The reviewers shall submit the scored proposals to the task force which shall make the final recommendations to the secretary. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.

(4) The application from each qualifying school or school consortium shall contain the following:

(a) A statement of need;

(b) Proposed goals and outcomes;

(c) A description of the actual services and activities to be provided at the center and how they shall be provided;

(d) A description of how the children and families with the most urgent needs will be served first;

(e) Written agreements with other service providers;

(f) A description of the development, composition, and role of the local advisory council;

(g) The strategies to disseminate information;

(h) A training plan;

(i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.440, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;

(j) A plan to minimize stigma;

(k) A work plan for each of the core components and optional components;

(l) Job descriptions for staff;

(m) A description of the center location and school accessibility;

(n) A description of the hours of operation of the center;

(o) A financial strategy and budget;

(p) A program evaluation plan; and

(q) Letters of endorsement and commitment to the center from community agencies and organizations.

(5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.

SB 112, AN ACT relating to reporting of specified incidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) If a student has been adjudicated guilty of an offense specified in this subsection or has been expelled from school for an offense specified in this subsection, prior to a student's admission to any school, the parent, guardian, or other person or agency responsible for a student shall provide to the school a sworn statement or affirmation indicating on a form provided by the State Board for Elementary and Secondary Education that the student has been expelled from school attendance at a public or private school in this state or another state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs.

(2) If any student who has been expelled from attendance at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records, those records shall reflect the charges and final disposition of the expulsion proceedings.

(3) If any student who is subject to an expulsion proceeding at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests

transfer of his records to a new school, the records shall not be transferred until that proceeding has been terminated and shall reflect the charges and any final disposition of the expulsion proceedings.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or Kentucky State Police, by telephone or otherwise, if:

(a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:

1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:

a. Carrying, possession, or use of a deadly weapon;

b. Assault, terroristic threatening, or menacing;

c. Use, possession, or sale of controlled substances;

d. Criminal damage to the property of the school, the school system, a school employee, or a student at the school; or

e. Violation of KRS 525.090, loitering; or

2. Any felony offense under the laws of this Commonwealth; and

(b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises on a school bus, or at a school sponsored or sanctioned event.

(5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection and shall, in addition, report the name of the person providing the information, if the informant's name is known to the reporting party.

(6) Neither the husband-wife privilege of KRE 504 nor any professional-client privilege, including those set forth in KRE 506 and 507, shall be a ground for refusing to make a report required under this section or for excluding evidence in a judicial proceeding of the making of a report and of the conduct giving rise to the making of a report. However, the attorney-client privilege of KRE 503 and the religious privilege of KRE 505 are grounds for refusing to make a report or for excluding evidence as to the report and the underlying conduct.

(7) Nothing in this section shall be construed as to require self-incrimination.

(8) A person acting upon reasonable cause in the making of a report under this section in good faith shall be immune from any civil or criminal liability that might otherwise be incurred or imposed from:

(a) Making the report; and

(b) Participating in any judicial proceeding that resulted from the report.

Section 2. KRS 158.990 is amended to read as follows:

(1) Any member of a school board who votes to permit entrance to a school of any child not eligible therefor under the provisions of KRS 158.030 shall be fined not less than five dollars ($5) nor more than fifty dollars ($50).

(2) Any person required to report under Section 1 of this Act who fails to report promptly or who refuses to make a report is guilty of a Class A misdemeanor.

The Committee Substitute to **SB 112** is as follows:

SB 112, AN ACT relating to reporting of specified incidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) If a student has been adjudicated guilty of an offense specified in this subsection or has been expelled from school for an offense specified in this subsection, prior to a student's admission to any school, the parent, guardian, or other person or agency responsible for a student shall provide to the school a sworn statement or affirmation indicating on a form provided by the State Board for Elementary and Secondary Education that the student has been expelled from school attendance at a public or private school in this state or another state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs.

(2) If any student who has been expelled from attendance at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records, those records shall reflect the charges and final disposition of the expulsion proceedings.

(3) If any student who is subject to an expulsion proceeding at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records to a new school, the records shall not be transferred until that proceeding has been terminated and shall reflect the charges and any final disposition of the expulsion proceedings.

(4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or Kentucky State Police, by telephone or otherwise, if:

(a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:

1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:

a. Carrying, possession, or use of a deadly weapon; or

b. Use, possession, or sale of controlled substances; or

2. Any felony offense under the laws of this Commonwealth; and

(b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises on a school bus, or at a school sponsored or sanctioned event.

(5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection.

(6) Neither the husband-wife privilege of KRE 504 nor any professional-client privilege, including those set forth in KRE 506 and 507, shall be a ground for refusing to make a report required under this section or for excluding evidence in a judicial proceeding of the making of a report and of the conduct giving rise to the making of a report. However, the attorney-client privilege of KRE 503 and the religious privilege of KRE 505 are grounds for refusing to make a report or for excluding evidence as to the report and the underlying conduct.

(7) Nothing in this section shall be construed as to require self-incrimination.

(8) A person acting upon reasonable cause in the making of a report under this section in good faith shall be immune from any civil or criminal liability that might otherwise be incurred or imposed from:

(a) Making the report; and

(b) Participating in any judicial proceeding that resulted from the report.

Section 2. KRS 158.990 is amended to read as follows:

(1) Any member of a school board who votes to permit entrance to a school of any child not eligible therefor under the provisions of KRS 158.030 shall be fined not less than five dollars ($5) nor more than fifty dollars ($50).

(2) Any person required to report under Section 1 of this Act who fails to report promptly or who refuses to make a report is guilty of a Class A misdemeanor.

SB 131, AN ACT relating to school personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the State Board for Elementary and Secondary Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. ***The superintendent shall, pursuant to administrative regulations of the State Board for Elementary and Secondary Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.***

(e) Effective July 1, 1991, no relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district prior to July 13, 1990, and who is certified for the position he holds, as long as the superintendent is holding office on July 1, 1991, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor. Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

(4) (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(5) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.

Section 2. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. ***After the effective date of this Act, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his file.***

(2) Certificates shall be issued to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the Education Professional Standards Board and shall measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. If the teacher fails the tests, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers, and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations, the chief state school officer may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. In the case of a nonpublic school, if the teacher training institution is unable to provide a member to serve on the beginning teacher committee, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator. The resource teacher shall be appointed by the Department of Education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the Department of Education. Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:

(a) Teachers in the same school;

(b) Teachers in the same district; and

(c) Teachers in an adjacent school district.

The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of

these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the chief state school officer shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the examinations as prescribed by the Education Professional Standards Board.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must reestablish eligibility by repeating and passing the testing program in effect for new teachers at that time.

(10) The Education Professional Standards Board shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

SB 132, AN ACT relating to superintendent screening committees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.352 is amended to read as follows:

(1) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent***, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled***.

(2) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district; and

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district.

(3) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations.

SB 133, AN ACT relating to elementary and secondary school teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, divided by the actual number of days the school is in session;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be

provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session. Kindergarten is the entry level of the primary program and shall be provided at a minimum for one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the State Board for Elementary and Secondary Education" means those regulations which the State Board for Elementary and Secondary Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means ***employment as*** ~~[performance of the duties of]~~ a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who ***is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those*** ~~[performs teaching duties for at least one half (1/2) of a normal school day on one hundred and forty (140) days of a school year shall be credited with one (1) year of experience. A teacher who performs teaching duties for less than one-half (1/2) of a normal school day on one hundred and forty (140) days of each of two (2) school]~~ years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year.

(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the State Board for Elementary and Secondary Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year.

(16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board.

SB 206, AN ACT relating to school-based decision making.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) The term "teacher" for the purpose of this section means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy shall also address and comply with the following:

(a) Each participating school shall form a school council which shall be composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees. By July 1, 1993, the State Board for Elementary and Secondary Education shall submit recommendations to the Legislative Research Commission relating to policies and procedures to insure minority representation on school councils.

(b) The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be selected for one (1) year terms. The parent members shall be elected by the parent members of the parent teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. The principal or head teacher shall be the chair of the school council.

(c) *1.* The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) [~~All certified staff at a school may be participants in the school-based decision making. The staff may divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, and special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) year. The committee shall submit its recommendations to the school council for consideration.~~

~~(e)~~] The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e)[~~(f)~~] The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f)[~~(g)~~] After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g)[~~(h)~~] The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h)[~~(i)~~] From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i)[~~(j)~~] The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon a favorable vote of a majority of the faculty at the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the State Board for Elementary and Secondary Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the State Board for Elementary and Secondary Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council.

(9) (a) No board member, superintendent of schools, or district employee shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph ***(i)***[~~(j)~~] of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the State Board for Elementary and Secondary Education.

(c) The State Board for Elementary and Secondary Education shall establish by administrative regulation a hearing process for complaints referred by the Office of Education Accountability.

(d) If the State Board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 247, AN ACT relating to school district planning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) The term "teacher" for the purpose of this section means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy shall also address and comply with the following:

(a) Each participating school shall form a school council which shall be composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees. By July 1, 1993, the State Board for Elementary and Secondary Education shall submit recommendations to the Legislative Research Commission relating to policies and procedures to insure minority representation on school councils.

(b) The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be selected for one (1) year terms. The parent members shall be elected by the parent members of the parent teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. The principal or head teacher shall be the chair of the school council.

(c) The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

(d) All certified staff at a school may be participants in the school-based decision making. The staff may divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, and special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) year. The committee shall submit its recommendations to the school council for consideration.

(e) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(f) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(g) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(h) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(i) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(j) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; ~~[and]~~

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal***; and***

10. Procedures for implementing its action plan consistent with the procedures adopted by the local board pursuant to KRS 160.340(2).

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon a favorable vote of a majority of the faculty at the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the State Board for Elementary and Secondary Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the State Board for Elementary and Secondary Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council.

(9) (a) No board member, superintendent of schools, or district employee shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (j) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the State Board for Elementary and Secondary Education.

(c) The State Board for Elementary and Secondary Education shall establish by administrative regulation a hearing process for complaints referred by the Office of Education Accountability.

(d) If the State Board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 2. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the chief state school officer and approved by the State Board for Elementary and Secondary Education, prepare and submit to the State Board for Elementary and Secondary Education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) ***Each board shall include in its annual report pursuant to KRS 158.6453 and submit to the State Board for Elementary and Secondary Education its procedures for implementing its action plan to increase the percentage of certified and classified minority employees in the district and procedures to assure that the curriculum, instructional materials, and textbooks reflect ethnic diversity.***

(3) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) Personnel policies that apply to certified employees, including fringe benefits, salary schedules, nonclassroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion;

(f) Evaluation of certified employees;

(g) Selection of textbooks and instructional materials;

(h) Expenditure and accounting for school funds, including all special funds; and

(i) Policies dealing with school-based decision making.

(4)~~[(3)]~~ It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 and shall be public records.

The Committee Amendment No. 1 to **SB 247** is as follows:

On page 4, line 11 after "***10.***" by inserting the following:

"***Assessment of any deficiencies in the percentage of certified and classified minority personnel in the school and development of an action plan and procedures to assure that the curriculum, instructional materials and textbooks adequately reflect ethnic diversity.***"; and

On page 4. line 11 after "***10.***" by deleting all new language; and

On page 4, by deleting line 12 in its entirety; and

On page 7, line 17 by inserting the word "***adequately***" after the word "***textbooks***".

SJR 10, A JOINT RESOLUTION directing the naming of the "D. H. Anderson Technical Building."

WHEREAS, Dr. Dennis Henry Anderson, 1866 - 1952, had a life-long dedication to education; and

WHEREAS, in 1909, Dr. Anderson established in Paducah the second largest junior college for African-American students in the United States; and

WHEREAS, the fruits of Dr. Anderson's labor are exhibited in the Kentucky Tech West Campus in Paducah; and

WHEREAS, Dr. Anderson left a great heritage that should be emulated by those who strive to educate all people;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State Board for Adult and Technical Education and the Workforce Development Cabinet recognize the accomplishments and memory of Dr. Dennis Henry Anderson and encourage educators in the Kentucky Tech system to follow his example to educate all people.

Section 2. That the State Board for Adult and Technical Education and The Workforce Development Cabinet be directed to name the main building on the Kentucky Tech West Campus in Paducah the "D. H. Anderson Technical Building" in honor of Dr. Dennis Henry Anderson.

The Committee on Elections and Constitutional Amendments reported **HB 55**, with Committee Substitute and Committee Amendment attached thereto, **HB 118, HB 172, HB 228** and **HB 290** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 55, AN ACT proposing an amendment to the Constitution of Kentucky relating to the qualifications of members of the Kentucky General Assembly and members of the United States Congress elected from Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 32 of the Constitution of Kentucky be amended to read as follows:

No person shall be a Representative who, at the time of his election, is not a citizen of Kentucky, has not attained the age of twenty-four years, and who has not resided in this State two years next preceding his election, and the last year thereof in the county, town or city for which he may be chosen. No person shall be a Senator who, at the time of his election, is not a citizen of Kentucky, has not attained the age of thirty years, and has not resided in this State six years next preceding his election, and the last year thereof in the district for which he may be chosen.

No person elected to the House of Representatives shall serve more than six consecutive terms in office as a Representative. No person elected to the Senate shall serve more than three consecutive terms in office as a Senator. A member of the General Assembly who has served the maximum number of consecutive terms permitted under this section shall not be eligible to be a member of the same chamber in which the maximum length of service was reached until the expiration of four years following the end of the last permitted consecutive term; however, this restriction shall not apply to a member who has served the maximum number of consecutive terms in one chamber of the General Assembly who seeks election as a member of the other chamber. Any person elected to fill a vacancy in the General Assembly who serves in office shall not be considered to have served a term in that office for purposes of this section.

SECTION 2. IT IS PROPOSED THAT THE FOLLOWING NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 145A. No person elected to the United States House of Representatives from Kentucky shall serve more than six consecutive terms in office as a Representative. No person elected to the United States Senate from Kentucky shall serve more than two consecutive terms in office as a Senator. A member of the United States Congress elected from Kentucky who has served the maximum number of consecutive terms permitted under this section shall not be eligible to be a member of the same chamber in which the maximum length of service was reached until the expiration of four years following the end of the last permitted consecutive term; however, this restriction shall not apply to a member who has served the maximum number of consecutive terms in one chamber of the United States Congress who seeks election as a member of the other chamber. Any person appointed to fill a vacancy in the Kentucky delegation to the United States Congress who serves in office shall not be considered to have served a term in that office for purposes of this section.

Section 3. If approved by the voters, this amendment shall apply to those members elected to the General Assembly and United States Congress in 1994 and thereafter. The maximum term limitation shall not include a member's service prior to 1994.

Section 4. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 55** is as follows:

HB 55, AN ACT proposing an amendment to the Constitution of Kentucky relating to the qualifications of members of the Kentucky General Assembly and members of the United States Congress elected from Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT THE PRESENT CONSTITUTION OF KENTUCKY BE AMENDED BY ENACTING IN LIEU OF THE PRESENT SECTIONS REPEALED IN SECTION 2 OF THIS ACT THE FOLLOWING NEW PROVISIONS TO READ AND BE NUMBERED AS FOLLOWS:

Section 190. The General Assembly shall provide by general law for the formation, organization, and regulation of corporations and prescribe their powers, rights, duties, and liabilities, and the powers, rights, duties, and liabilities of their officers and stockholders or members.

Section 191. The General Assembly shall provide for appropriate regulation of common carriers and public utilities as and to the extent required by the public interest.

Section 2. It is proposed that the present Constitution of Kentucky be amended by repealing the following present sections:

190 Corporations must accept Constitution.
191 Unexercised charters granted prior to Constitution revoked.
192 Corporations restricted to charter authority; holding of real estate limited.
193 Stock or bonds to be issued only for money or for property or labor at market value; watered stock void.
194 Corporations to have place of business and process agent in State.
195 Corporation property subject to eminent domain; corporations not to infringe upon individuals.
196 Regulation of common carriers; no relief from common law liability.
197 Free passes or reduced rates to officers forbidden.
198 Trusts and combinations in restraint of trade to be prevented.
199 Telegraph and telephone companies; right to construct lines; exchange of messages.
200 Domestic corporation consolidating with foreign does not become foreign.
201 Public utility company not to consolidate with, acquire or operate competing or parallel system; common carriers not to share earnings with one not carrying; telephone companies excepted under certain conditions.
202 Foreign corporations not to be given privileges over domestic.
203 Liabilities under corporate franchise not released by lease or alienation.
204 Bank officer liable for receiving deposit for insolvent bank.
205 Forfeiture of corporate charters in case of abuse or detrimental use.
206 Warehouses subject to legislative control; inspection; protection of patrons.
207 Cumulative voting for directors of corporations; proxies.
208 "Corporation" includes joint stock company or association.
209 Railroad Commission; election, term and qualifications of Commissioners; Commissioners' districts; powers and duties; removal; vacancies.
210 Common carrier corporation not to be interested in other business.
211 Foreign railroad corporation may not condemn or acquire real estate.
212 Rolling stock, earnings and personal property of railroads subject to execution or attachment.
213 Railroad companies to handle traffic with connecting carriers without discrimination.
214 Railroad not to make exclusive or preferential contract.
215 Freight to be handled without discrimination.
216 Railroad must allow tracks of others to cross or unite.
217 Penalties for violating Sec. 213, 214, 215 or 216; Attorney-General to enforce.
218 Long and short hauls.

Section 3. If this amendment is ratified by the voters, all laws relating to corporations, common carriers, and public utilities in effect at the time of the effective date of this amendment shall continue in full force and effect until amended or repealed by act of the General Assembly.

Section 4. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Title Amendment to **HB 55** is as follows:

By amending the title to read "AN ACT proposing an amendment to the Constitution of Kentucky relating to commerce.".

HB 118, AN ACT proposing amendments to Section 36 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet on the first Tuesday after the first Monday in January in odd-numbered years for ***an organizational session for*** a period not to exceed ten legislative days for the purposes of electing legislative leaders, adopting rules of procedure and the organizing of committees. ***Immediately upon the adjournment sine die of the organizational session, the General Assembly shall meet for a period not to exceed fifteen legislative days for the purpose of making***

adjustments to appropriations made during the prior regular session. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session, and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 172, AN ACT proposing an amendment to Section 46 of the Constitution of Kentucky relating to bills considered by the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 46 of the Constitution of Kentucky be amended to read as follows:

No bill shall be considered for final passage unless the same has been reported by a committee and printed for the use of the members. ***A summary of*** every bill shall be read at length on three different days in each House, but the second and third readings may be dispensed with by a majority of all the members elected to the House in which the bill is pending. But whenever a committee refuses or fails to report a bill submitted to it in a reasonable time, the same may be called up by any member, and be considered in the same manner it would have been considered if it had been reported. No bill shall become a law unless, on its final passage, it receives the votes of at least two-fifths of the members elected to each House, and a majority of the members voting, the vote to be taken by yeas and nays and entered in the journal: Provided, Any act or resolution for the appropriation of money or the creation of debt shall, on its final passage, receive the votes of a majority of all the members elected to each House.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 228, AN ACT proposing an amendment to Section 230 of the Constitution of Kentucky relating to the financing of various modes of transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 230 of the Constitution of Kentucky be amended to read as follows:

No money shall be drawn from the State Treasury, except in pursuance of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published annually. [~~No~~] Money derived from excise or license taxation relating to gasoline and other motor fuels, and ***money*** [~~no moneys~~] derived from fees, excise***,*** or license taxation relating to registration, operation, or use of vehicles on public highways shall be ***placed in a transportation fund. Money in the transportation fund shall be used for: the cost of administration, statutory refunds and adjustments, and the payment of highway obligations; the cost of construction, reconstruction, rights-of-way, maintenance and repair of public highways and bridges; and the expense of enforcing state traffic and motor vehicle laws. The Governor may, when submitting his biennial budget to the General Assembly, recommend that the General Assembly appropriate up to twenty percent (20%) of the transportation fund to be used for projects that use new or future technologies in transportation, including high speed rail; projects that reduce air pollution or improve air quality; projects that reduce energy consumption; projects that promote public transportation; projects in both urban and rural areas that promote mobility for the elderly, persons with disabilities, or economically disadvantaged persons; providing the Commonwealth's monetary match for projects eligible for federal funding under the 1991 Federal Intermodal Surface Transportation Efficiency Act or any future federal highway legislation; and projects that conserve, restore, enhance, or create wetlands*** [~~expended for other than the cost of administration, statutory refunds and adjustments, payment of highway obligations, costs for construction, reconstruction, rights-of-way, maintenance and repair of public highways and bridges, and expense of enforcing state traffic and motor vehicle laws~~].

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 290, AN ACT proposing an amendment to the Constitution of Kentucky relating to powers of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AS FOLLOWS:

Section 36A. The General Assembly may establish certain oversight committees, the powers and duties of which shall be prescribed by law, including, but not limited to, the right to approve, reject, or amend contracts, bond proposals, or other agreements to which the Commonwealth is a party. Any committees established pursuant to this section may take action, whether or not the General Assembly is in session.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee on Judiciary reported **HB 430, HB 453,** with Committee Amendment attached thereto, **HB 520, HB 695, HB 910, HB 915** and **SB 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 430, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property***, or obtaining the rental of or retaining possession of a residential or commercial leasehold interest in property prior to or during the term of the rental***.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the Revenue Cabinet and required to be filed with the Revenue Cabinet as prescribed by law.

Section 2. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ten dollars ($10), if the instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, ***rent,*** or the amount of the check or sight order referred to in subsection (5) or (6) of this section is three hundred dollars ($300) or more, in which case it is a Class D felony.

HB 453, AN ACT relating to landlord and tenant.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

If a judgment has been entered for the plaintiff based on nonpayment of rent, but a writ of restitution is not entered within thirty (30) days after the entry of the judgment, no writ shall issue pursuant to the judgment. If, within twelve (12) months thereafter, the defendant fails to pay when due the rental amounts required by the rental agreement, the plaintiff may terminate the tenancy of the defendant based on the subsequent default and obtain entry of a writ of restitution, as follows:

(1) The plaintiff shall serve the defendant with a notice of subsequent rental default.

(2) The notice shall advise the defendant of the entry of the previous judgment and subsequent rental default and shall notify the defendant that:

(a) He has seven (7) days from the date the notice was served within which to remedy the default, by the payment of the rent, late charges, and other lawful charges; and

(b) If the default is not adequately remedied by full payment of all rental and other lawful charges within seven (7) from service, the plaintiff may redocket the action and that a writ of restitution shall issue according to the procedures set forth in subsection (3) of this section.

(3) The plaintiff may redocket the action for hearing by the court, as follows:

(a) The plaintiff shall file in the court a motion for redocket, a copy of the notice of subsequent default, and a proposed supplemental forcible detainer warrant. The clerk of the court shall issue a forcible detainer warrant, notifying the defendant of the time, date, and place of the hearing.

(b) Service of the forcible detainer warrant shall be made pursuant to KRS 454.030.

(c) If the plaintiff proves that the notice of subsequent default was properly served and that the defendant has defaulted as alleged in the notice, the court shall issue at the time of the hearing a writ of restitution to the plaintiff, effective on the following day.

(d) The plaintiff shall make a reasonable effort to immediately notify defendant of the issuance of the write of restitution if the defendant, or the defendant's representative, was not present in court. The failure of the

defendant to receive actual notice of the issuance of the writ will not prevent its execution.

The Committee Amendment No. 1 to **HB 453** is as follows:

On page 1, line 16, following "***(7)***" to insert "***days***"; and

On page 2, line 6, to delete "***write***" and to insert in lieu thereof "***writ***".

HB 520, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim, or serious physical injury to a victim.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on parole until he has served at least twelve (12) years in the penitentiary***, and shall not be eligible for probation, conditional discharge, or shock probation***.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on parole until he has served at least fifty percent (50%) of the sentence imposed***, and shall not be eligible for probation, conditional discharge, or shock probation***.

(4) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(5) This section shall apply only to those persons who commit offenses after July 15, 1986.

HB 695, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.010 is amended to read as follows:

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

(2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:

   (a) The Commonwealth shall direct its efforts to ***promoting the best interests of the child*** [~~the strengthening and encouragement of family life for the protection and care of children; to strengthen and maintain the biological family unit; and to offer all available resources to any family in need of them~~];

   (b) It also shall be declared to be the policy of this Commonwealth that all efforts shall be directed toward providing each child a safe and nurturing home;

   (c) The court shall show that ***it has acted in the best interests of the child when determining whether to remove that child from his family*** [~~other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary~~];

   (d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his condition; and

   (e) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, ***the*** [~~such~~] protections belong to the child individually and may not be waived by any other party.

HB 910, AN ACT relating to decedents' estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 395.455 is amended to read as follows:

(1) ***If*** [~~Where~~] the exemption of the surviving spouse ***or surviving children*** alone, or together with preferred claims paid by a widow***, surviving children,*** or by the widower ***if*** [~~where~~] the wife's estate is legally liable for payment, equals or exceeds the amount of probatable assets, the court may order that administration of the estate be dispensed with and ***the***

[~~such~~] assets be transferred to the surviving spouse ***or surviving children*** or to a person designated by ***the*** [~~such~~] surviving spouse ***or surviving children*** to receive all or part of ***the*** [~~such~~] assets. The court may so order in both testate and intestate estates and without requiring the renunciation of a will or the giving of bond.

(2) If the court is satisfied that no probatable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and in the case of a testate estate that the will be probated only.

(3) ***If*** [~~Where~~] a surviving spouse ***or surviving children have*** [~~has~~] waived ***their rights*** [~~his or her right~~] to the exemption accorded by law in favor of a person who has paid preferred claims in an amount equalling or exceeding the amount of probatable assets or who is legally entitled to ***the*** [~~such~~] payment, or ***if*** [~~where~~] there is no surviving spouse ***or surviving children*** and ***the*** [~~such~~] person has made ***the*** [~~such~~] payment or is legally entitled thereto, the court may order that the administration of the estate be dispensed with and ***the*** [~~such~~] assets transferred to ***the*** [~~such~~] person. The court may so order without requiring the giving of bond.

(4) For purpose of this section, the exemption of the surviving spouse ***and surviving children means the*** [~~is such~~] exemption as has been created by KRS 391.030 and ***the*** preferred claims [~~are those~~] listed in KRS 396.095 and in the order thereof.

HB 915, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing may:

(1) Order the child to make restitution or reparation to any injured person to ***the*** [~~such~~] extent, in ***the*** [~~such~~] sum and upon ***the*** [~~such~~] conditions [~~as~~] the court determines; ***or***

(2) Place the child on probation or under supervision in his own home or in a suitable home or boarding home, upon [~~such~~] conditions [~~as~~] the court shall determine. A child [~~so~~] placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or an employee of the cabinet. A child [~~so~~] placed on probation or supervision shall remain subject to the jurisdiction of the court until he becomes eighteen (18) years of age, unless he is discharged prior thereto by the court, except that if a person is placed on probation or supervision after he reaches the age of seventeen (17) years and six (6) months, [~~such~~] probation or supervision shall be for a period not to exceed one (1) year; ***or***

(3) Commit the child to the custody or guardianship of the cabinet or of a child-caring facility or a child-placing agency authorized to care for ***the*** [~~such~~] children, or place the child under the custody and supervision of a suitable person. All orders of commitment may include [~~such~~] advisory recommendations [~~as~~] the court may deem proper in the best interests of the child and of the public. ***The*** [~~Such~~] commitment or placement shall be until the age of eighteen (18), subject to the power of the court to terminate the order and discharge the child prior thereto, except that if ***the*** [~~such~~] commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, ***the*** [~~such~~] commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the cabinet, may authorize an extension of commitment up to age twenty-one (21) to permit the cabinet to assist the child in establishing independent living arrangements; or

(4) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility or juvenile holding facility in accordance with KRS 15A.200 for a period of time not to exceed thirty (30) days***; or***

(5) Any combination of the dispositions listed above.

SB 136, AN ACT relating to parental consent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.732 is amended to read as follows:

(1) For purposes of this section the following definitions shall apply:
   (a) "Minor" means any person under the age of eighteen (18);
   (b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and
   (c) "Abortion" means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:
   (a) The attending physician or his agent secured the informed written consent[~~, signed and notarized,~~] of the minor and ***one (1) parent*** [~~both parents, if available,~~] or legal guardian;

(b) ~~[If both parents are not available, the attending physician or his agent has secured such written consent from the minor and the available parent or guardian;~~

~~(c)~~] The minor is emancipated and the attending physician or his agent has received the informed written consent[~~, signed and notarized,~~] of the minor; or

(c)[~~(d)~~]The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent[~~, signed and notarized,~~] of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect and understanding of the minor; the nature, possible consequences and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.

(4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

(a) Granting the petition for an abortion if the court finds that the minor is mature and well-informed enough to make the abortion decision on her own;

(b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or

(c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the Cabinet for Human Resources on a form supplied by the cabinet. This report shall be confidential.

(10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

The Committee on Economic Development reported **HJR 91** and **SB 346** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 91, A JOINT RESOLUTION directing the Cabinet for Economic Development to investigate the feasibility of creating a pilot program to assist public assistance recipients to become self sufficient by developing their own small businesses and, if feasible, work with the Cabinet for Human Resources to establish such a pilot program.

WHEREAS, considerable numbers of people in Kentucky are on public assistance at a substantial cost to the Commonwealth; and

WHEREAS, some of Kentucky's public assistance recipients are willing and able to leave public assistance by developing personal income; and

WHEREAS, Kentucky's public assistance recipients are locked into a system in which additional income or business assets often disqualify them from continued benefits, and they cannot break out on their own; and

WHEREAS, Kentucky's public assistance recipients need financial assistance, training, and other kinds of support to accomplish self-sufficiency through small business entrepreneurship; and

WHEREAS, several states have already launched successful programs assisting limited numbers of public assistance recipients to establish themselves in their own small businesses; and

WHEREAS, the Cabinet for Economic Development is charged with enhancing employment opportunities within the state; and

WHEREAS, the Cabinet for Human Resources administers programs assisting Kentucky's public assistance recipients to find employment and further their education and training; and

WHEREAS, it is believed that other resources within the public and private sector exist in Kentucky which have the potential to assist Kentucky's public assistance recipients in accomplishing self-employment goals; and

WHEREAS, it is within the Commonwealth's interest to establish viable programs to reduce the number of Kentucky's public assistance recipients by making them self-supporting;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Economic Development shall investigate the feasibility of a program to:

(1) Assist Kentucky's public assistance recipients to establish themselves in their own businesses;

(2) Offer a variety of approaches in order to meet the different needs and situations of Kentucky's public assistance recipients;

(3) Enhance participants' self-sufficiency without undermining their current maintenance and support during the transition to self-sufficiency; and

(4) Give major responsibility to the public assistance recipients for the success of their own enterprises.

Section 2. The investigation conducted by the Cabinet for Economic Development shall survey existing resources, public and private, in at least two (2) different locations and determine whether or not physical and financial resources are available to provide the following minimum components:

(1) Screening and selection of participants;

(2) Education and training for participants;

(3) Capital loans to participants for business start-ups;

(4) Technical assistance to participants.

Section 3. The investigation performed by the Cabinet for Economic Development shall also encompass an evaluation of the Kentucky Entrepreneurial Enterprise Program (KEEP) proposal developed by the Legislative Research Commission.

Section 4. The results of this investigation shall be provided to the Legislative Research Commission and the Cabinet for Human Resources by October 1, 1995.

Section 5. If the results of this investigation are favorable in that adequate physical and financial resources to meet the minimum components listed in Section 1 are available, the Cabinet for Human Resources and the Cabinet for Economic Development shall work together to coordinate and use these resources to accomplish self-sufficiency goals for public assistance recipients.

Section 6. The Cabinet for Human Resources shall be responsible for policy development which shall protect participants' public assistance benefits during a participant's transition toward self-sufficiency. If the KEEP proposal, which intrinsically accomplishes this goal, is found not to be viable, the Cabinet for Human Resources shall attempt to acquire all the necessary federal waivers and permits. Implementation of a self-employment, self-sufficiency program shall be dependent upon federal approval of the state plan which protects the public assistance benefits of recipients during the transition period.

Section 7. This program shall become operational in at least two locations within sixty (60) days of approval of the state plan by the federal authorities.

Section 8. The program shall be evaluated at the end of twelve (12) months of operation to determine its progress and the potential for expansion to additional locations. This evaluation shall be a joint effort of the Cabinet for Human Resources and the Cabinet for Economic Development and shall be submitted to the Legislative Research Commission.

SB 346, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.50-310 is amended to read as follows:

As used in KRS 154.50-301 to 154.50-346, unless the context otherwise requires:

(1) "Authority" means a local industrial development authority as established by KRS 154.50-301 to 154.50-346.

(2) "Industrial sites, parks and subdivisions" means land ***and improvements thereon, including buildings, fixtures and equipment,*** suitable for one or more ***manufacturers,*** industries or commercial establishments.

(3) "Development of land" means the improvement and provision of facilities essential to the use of land for ***manufacturing,*** industrial and commercial purposes such as but not limited to core drilling, grading, sewerage systems, water systems, access roads, rail lines, electrical lines, ~~[and]~~ layout planning***, and the construction and equipping of buildings***.

(4) "Governmental units" means any city or the combination of any two (2) or more cities, any county or combination of two (2) or more counties, or any city or cities acting jointly with any county or counties.

(5) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Section 2. KRS 154.50-320 is amended to read as follows:

(1) The purpose, duties and powers of the authority shall be to:

  (a) Acquire, retain and develop land for industrial and commercial purposes in Kentucky; aid in the development and promotion of industrial sites, parks and subdivisions to meet industrial and commercial needs in Kentucky.

  (b) Encourage the acquisition, retention and development of land for industrial and commercial needs in Kentucky by other local development organizations, both public and private.

  (c) Cooperate with the U. S. Army Corps of Engineers and other federal agencies in formulating development plans and in acquiring and developing land for industrial and commercial purposes in accordance with these plans.

  (d) Acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary or suitable for establishing industrial sites, parks or subdivisions. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority are no longer needed to carry out the purposes of KRS 154.50-301 to 154.50-346. The authority may ***lease,*** sell***,*** or convey any or all ***industrial sites, parks, and subdivisions*** ~~[land]~~ owned or optioned by it to any public or private organization, governmental unit, or industry for the purpose of constructing and/or operating any ***manufacturing,*** industrial or commercial facility. Provided, however, that no sale or conveyance of any land shall be made to a private organization or industry without such organization or industry first having executed a written contract with the authority providing that if no actual construction of an industrial facility is commenced within two (2) years, the organization or industry shall reconvey the land, free and clear of liens and encumbrances, to the authority, and the authority shall return to the organization or industry 95 percent of the purchase price paid therefor.

(2) Upon the adoption by the authority of a resolution reciting that property is needed for industrial sites, parks and subdivisions and cannot be acquired by negotiation and purchase at its fair market value, the governmental units in which such land is located may direct and institute condemnation proceedings in the name of such governmental units, for the use and benefit of the authority. The procedure for condemnation shall conform to the procedure set out in the Eminent Domain Act of Kentucky. Upon acquisition of the property, the governmental unit shall convey the property to the authority upon payment by the authority to the governmental unit of an amount of money equal to the judgment and costs paid by the governmental unit.

Section 3. KRS 154.50-340 is amended to read as follows:

(1) In order to provide money for the purchase of property necessary to develop industrial sites, parks and subdivisions, the legislative body of any governmental unit creating the industrial development authority under KRS 154.50-301 to 154.50-346 may make an annual appropriation from its general fund for such industrial development. Any appropriation shall be made by the legislative body in such amounts, in such proportion and upon such terms as the legislative body may determine. All funds derived from such appropriation shall be turned over to the industrial development authority for the purpose of carrying out the duties and powers of the authority.

(2) The authority may borrow money ***and issue notes and other financial instruments*** on its own credit ~~[in anticipation of revenue to be derived from appropriations or other income]~~. ~~[For such purposes]~~ The authority may pledge the appropriations or income anticipated***, or***~~[. The authority may pledge]~~ the industrial sites, parks and subdivisions***, or both,*** as security for ***its debts*** ~~[moneys borrowed]~~.

(3) The authority is authorized to defray the cost of acquiring and developing any industrial sites, parks, and subdivisions through the issuance of revenue bonds issued under the terms, conditions, and procedures set forth in KRS 103.200 to 103.285.

(4) The authority may, as an alternative method and in addition to all other methods provided by law, acquire and develop land for industrial and commercial use, and issue revenue bonds in connection therewith under the terms and provisions

of KRS Chapter 58 and under said law the term "governmental agency" means the authority and the term "public project" means industrial sites, parks and subdivisions.

The Committee on Counties and Special Districts reported **SB 140** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 140, AN ACT relating to community improvement districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 107.320 is amended to read as follows:

In counties containing a city of the first*,* ~~[or]~~ second*, third or fourth* class, a community improvement district may be created as provided in KRS 65.182 for the purpose of erecting buildings and related facilities for any governmental unit, or combination of governmental units, in the county. Any community improvement district so created shall include all of the territory in the county, including the area of incorporated cities, and shall be designated the "County Community Improvement District" (hereinafter called the "district"). The district shall constitute a public body corporate, with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to public nonprofit corporations generally by KRS Chapter 273, except such powers as may be inconsistent with specific provisions of KRS 107.310 to 107.500.

Floor Amendments (Continued)

Floor Amendment No. 8 to the Committee Substitute to **HB 302**, by Representative Northup:

On page 178, after line 9 by inserting the following:

"b. Medical Research: Notwithstanding any statute to the contrary, funds generated pursuant to KRS 248.540 shall be used by the College of Medicine to conduct research in health related areas including, but not limited to, diseases of the heart and lungs. All property including, but not limited to, facilities, equipment, technology, supplies and records that exist to carry out the purposes of KRS 248.510 to KRS 248.570 shall be transferred to the College of Medicine for its purposes."

Floor Amendment No. 7 to the Committee Substitute to **HB 302**, by Representative Cyrus:

On page 63, line 14, by deleting the amount "171,850,400" and inserting the amount "170,824,100"; and by deleting the amount "188,536,200" and inserting the amount "187,943,600"; and

On page 63, line 19, by deleting the amount "176,147,700" and inserting the amount "175,121,400"; and by deleting the amount "192,997,000" and inserting the amount "192,404,400"; and

On page 63, line 21, by deleting the amount "222,397,500" and inserting the amount "221,371,200"; and by deleting the amount "241,275,000" and inserting the amount "240,682,400"; and

On page 191, line 13, by deleting the amount "2,108,996,500" and inserting the amount "2,107,970,200"; and by deleting the amount "2,187,419,800" and inserting the amount "2,186,827,200"; and

On page 191, line 17, by deleting the amount "11,389,650,500" and inserting the amount "11,388,624,200"; and by deleting the amount "11,889,063,100" and inserting the amount "11,888,470,500"; and

On page 192, line 9, by deleting the amount "2,439,750,200" and inserting the amount "2,438,723,900"; and by deleting the amount "2,329,162,300" and inserting the amount "2,328,569,700"; and

On page 192, line 17, by deleting the amount "12,247,332,400" and inserting the amount "12,246,306,100"; and by deleting the amount "12,137,524,100" and inserting the amount "12,136,931,500".

Calendar

HB 886, HB 59, HB 811, HB 879, HB 885, HB 901, SB 188, SB 199, SB 234, HB 163, HB 844, HB 898, SB 177, SB 201, HB 662, HB 832 and **HB 888** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HR 92, SB 154, SB 241, HB 599, HB 853, HB 854 and **HB 865** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 886**, by Representative Nelson:

On page 2, line 6, delete the bracket and strikethrough and insert before the ";" the following: "*, up to five (5) cases (thirty (30) dozen eggs per case) per week*"; and

On page 2, line 7, delete the bracket and strikethrough; and

On page 2, line 8, delete "*(2)*" and the brackets and strikethrough; and

On page 2, line 10, delete "*(3)*" and the brackets and strikethrough; and

On page 2, line 12, delete "*(4)*" and the brackets and strikethrough.

Floor Amendment No. 1 to the Committee Substitute to **HB 455**, by Representative Rapier:

On page 4, line 20, after the "," by inserting the following: "*or which replaces existing machinery if the new machine has a productive capacity greater than the machine to be replaced, measured by units of production*"; and

On page 4, lines 20 and 21, by placing an opening bracket before the word "and" and by striking through the words "and which does not replace machinery in", and

On page 4, line 21, by deleting "*the*"; and

On page 4, line 21, by removing the brackets around "such" and by placing a closing bracket after and striking through "plants".

Floor Amendment No. 2 to **SB 153**, by Representative Geveden:

On page 2, below line 24, to add the following:

"Section 2. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of

mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court;

(13) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Department" means the Department for Social Services;

(15) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet

may supervise juvenile as well as adult prisoners;

(31) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33) "Parent" means the biological or adoptive mother or father of a child;

(34) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36) "Physical injury" means substantial physical pain or any impairment of physical condition;

(37) "Public offense action" means an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense;

(38) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42) "Secretary" means the secretary of the Cabinet for Human Resources;

(43) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian or other person having

custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51) "Youthful offender" means any person regardless of age, ***who comes within the criteria set forth in subsections (2), (3), (4), (6), and (7) of KRS 635.020 and is handled under the provisions of KRS Chapter 640*** ~~[transferred to Circuit Court under the provisions of KRS Chapter 640 and who is subsequently convicted in Circuit Court]~~.

Section 3. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed ***an offense*** ~~[a felony]~~ other than those described in subsections (2) and (3) of this section, ~~[a misdemeanor, or a violation,]~~ the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony or Class B felony, ***or an offense involving a deadly weapon or an offense wherein a deadly weapon was used or displayed,*** had attained age fourteen (14) at the time of the alleged commission of the offense, ~~[the court shall, upon motion of the county attorney made prior to adjudication that]~~ the child ***shall*** be proceeded against as a youthful offender ***in the adult session of the Trial Court having jurisdiction over the offense***, ~~[proceed in accordance with the provisions of KRS 640.010]~~.

(3) If a child charged with a Class C or Class D felony has on two (2) prior separate occasions been adjudicated a public offender for a felony offense or a delinquent of a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, ~~[the court shall, upon motion of the county attorney made prior to adjudication that]~~ the child ***shall*** be proceeded against as a youthful offender, ~~[proceed]~~ in ~~[accordance with]~~ the ***Circuit Court*** ~~[provisions of KRS 640.010]~~.

(4) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, ~~[the court shall, upon motion of the county attorney made prior to adjudication that]~~ the child ***shall*** be proceeded against as a youthful offender, ~~[proceed]~~ in ~~[accordance with]~~ the ***Circuit Court*** ~~[provisions of KRS 640.010]~~.

(5) A child who is charged as is provided in subsection (2) of this section and is also charged with ***any other offenses*** ~~[a Class C or D felony, a misdemeanor or a violation]~~ arising from the same course of conduct, shall have all charges included in the same proceedings; and ~~[the court shall, upon motion of the county attorney made prior to adjudication that]~~ the child ***shall*** be proceeded against as a youthful offender, ~~[proceed]~~ in ~~[accordance with]~~ the ***adult session of the Trial Court having jurisdiction over the highest offense*** ~~[provisions of KRS 640.010]~~.

(6) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, ~~[the court shall, upon motion of the county attorney made prior to adjudication that]~~ the child ***shall*** be proceeded against as a youthful offender, ~~[proceed]~~ in ~~[accordance with]~~ the ***Circuit Court*** ~~[provisions of KRS 640.010]~~.

(7) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 ~~[and transferred to Circuit Court]~~.

Section 4. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, ~~[if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 or if the county attorney elects not to proceed under KRS Chapter 640,]~~ the court may:

  (a) If a child is fourteen (14) years of age or older, and is adjudicated a public offender in the commission of a capital offense, Class A felony or Class B felony, ***or an offense involving a deadly weapon or an offense wherein a deadly weapon is used or displayed,*** the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday; or

  (b) If a child is sixteen (16) years of age or older, and is adjudicated a public offender in the commission of a felony offense and has previously been adjudicated delinquent of two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications, or has previously been adjudicated a public offender for two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday.

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) The cabinet shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.

(4) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(5) The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

~~[(6) After a child has been committed to the cabinet as provided in this section, he may not then be transferred to the Circuit Court as provided for in KRS 640.020.]~~

Section 5. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5), (6), or (7), the ***judge*** ~~[court]~~ shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020, the court shall upon motion by the ***Commonwealth or youthful offender conduct a*** ~~[county attorney to proceed under this chapter, conduct a preliminary]~~ hearing to determine if the ***youthful offender*** ~~[child]~~ should be transferred to ***the juvenile session of District Court*** ~~[Circuit Court as a youthful offender]~~. The ~~[preliminary]~~ hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the ~~[preliminary]~~ hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the ***juvenile session of District*** ~~[Circuit]~~ Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public; and
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system.

(c) If, following the completion of the ~~[preliminary]~~ hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section, that the child should be transferred to ***the juvenile session of District*** ~~[Circuit]~~ Court, the court shall issue an order transferring the child ~~[as a youthful offender]~~ and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the ***District*** ~~[Circuit]~~ Court as ***a juvenile*** ~~[an adult]~~, except as otherwise provided in ***KRS Chapter 635*** ~~[this chapter]~~.

(d) If, following completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section that the child shall not be transferred ~~[to the Circuit Court]~~, the case shall be dealt with as provided in ***this chapter*** ~~[KRS Chapter 635]~~.

(3) If the child is ***not*** transferred ~~[to Circuit Court]~~ under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (4), and (6), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender ~~[in Circuit Court]~~ but shall be returned to District Court to be dealt with as provided in KRS Chapter 635."

Floor Title Amendment to **SB 153**, by Representative Geveden:

Change title to "AN ACT relating to crimes and punishments.".

Floor Amendment No. 1 to **SB 136**, by Representative Geveden:

On page 2, line 5, after the word "abortion" by inserting the following: "***. The petition may also be filed on behalf of the minor by any of the following persons if the person has counseled the minor prior to filing the petition: licensed psychologist, licensed psychiatrist, or a clergyman who is a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a nationally recognized and established church or religious denomination***".

Motions, Petitions, and Communications (Continued)

Representative Harper moved that the rules be suspended to introduce a guest and allow floor privileges to former Senator Clyde Middleton. Agreed.

The Clerk announced the following meetings:

Minority Caucus, upon Recess, Room 149

Majority Caucus, upon Recess, Room 327

Recess

Representative Stumbo moved that the House recess for a Minority Caucus and a Majority Caucus. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 898**, by Representative McElroy:

On page 14, line 2, after the word "of" by deleting the semicolon "***;***"; and

On page 14, line 3, by deleting the "***(a)***"; and

On page 14, line 3, after the number "***(2)***", by deleting "***(a) and (b)***""; and

On page 14, line 4, after the word "year"; by deleting "***;and***"; and

On page 14, by deleting line 5 in its entirety; and

On page 14, line 6, by deleting the word "***section***".

Floor Amendment No. 1 to **HB 584**, by Representative Coleman:

On page 1, between the title and the enacting clause, by inserting the following:

"WHEREAS, the General Assembly finds that stolen property from various parts of the United States often arrive in the hands of transient merchants or owners of temporary transient businesses, who offer this merchandise for sale or resale to the citizens of the Commonwealth of Kentucky; and

WHEREAS, the General Assembly finds transient merchants or owners of temporary transient businesses should provide adequate evidence of the source of any merchandise offered for sale or resale; and

WHEREAS, the General Assembly finds that failure of transient merchants or owners of temporary transient businesses to provide adequate evidence of the source of any merchandise offered for sale or resale may subject the property to seizure until its source is established;

NOW, THEREFORE,";

on page 1, by deleting lines 1 to 27 in their entirety and inserting in lieu thereof the following:

"Section 1. The appropriate committee of the Legislative Research Commission is directed to study transient merchants and the need for, and methods of, obtaining evidence of the source of merchandise sold in the Commonwealth of Kentucky.

Section 2. The study shall be conducted during the 1994-95 Interim and the appropriate committee shall report its findings to the Legislative Research Commission no later than October 31, 1995.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission."; and

On page 2, by deleting lines 1 to 15 in their entirety.

Floor Title Amendment to **HB 584**, by Representative Coleman:

Amend title to read as follows: "AN ACT directing a study of transient merchants.

Floor Title Amendment No. 2 to **SB 24**, by Representative Rapier:

By amending the title to read as follows:
"AN ACT relating to state agencies and declaring an emergency."

Floor Amendment No. 2 to **SB 24**, by Representative Rapier:

On page 6, after line 3, by adding the following:

"Section 3. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's Higher Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Higher Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public institution of higher education***,*** ~~[or]~~ the Council on Higher Education***, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television*** during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on Higher Education Student Advisory Committee;
3. Associations representing faculty from universities and community colleges;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The State Board for Elementary and Secondary Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. ~~[Appointments shall be submitted to the 1992 Senate and House of Representatives for confirmation as soon as practicable following February 20, 1992. Subsequent]~~ Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on Higher Education pursuant to KRS 164.011, except the student member. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Higher Education at the same time, the committee shall submit a number of nominees equal to three (3) times the

number of vacancies. The Governor shall select the appointees from among the nominees.

(b) ***The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.***

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen [~~board~~] vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 4 KRS 164.746, as amended in Section 4 of 1994 Senate Bill 40, is further amended to read as follows:

(1) The authority shall be governed and all of its powers, duties, and functions exercised by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the executive director of the Council on Higher Education and the secretary of the Department of Finance shall serve as non-voting ex officio members. [~~Effective July 1, 1994, three (3) members shall serve for a term of two (2) years and four (4) members shall serve for a term of four (4) years. All succeeding terms~~] The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of two (2) years. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding two (2) years and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings. A majority of the voting members shall constitute a quorum for the transaction of any business, provided, however, that the meeting must be called by the chairman ten (10) days prior to the meeting date and either the chairman or the chairman-elect must be present for the transaction of any business.

(6) The board shall adopt rules and regulations, not inconsistent with law, governing the conduct of the authority and may appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties; provided, however, that the responsibility for the management of all funds shall be vested in the Finance and Administration Cabinet.

[~~(7) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, seven (7) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.~~]

Section 5. KRS 164A.050, as amended in Section 5 of Senate Bill 40, is further amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on Higher Education, the secretary of the Finance and Administration Cabinet and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. [~~Effective July 1, 1994~~] ***Of the new members of the corporation so appointed***, two (2) [~~members~~]shall [~~serve~~] ***continue in office*** for a term of four (4) years, and two (2) shall [~~serve~~] ***continue in office*** for a term of [~~two (2)~~]

three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

[~~(13) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, four (4) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.~~]

Section 6. The existing boards of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation shall continue in operation and changes made by Sections 4 and 5 of this Act shall only apply to vacancies and replacements occurring subsequent to the effective date of this Act. Contrary provisions of Section 6 of 1994 Senate Bill 40 as they relate to these two specific boards are hereby repealed."; and

On page 6, line 4, after "Section", by changing "3" to "7"; and

On page 6, after line 6, by adding the following:

"Section 8. Whereas it is the intention of the General Assembly to make modifications in Senate Bill 40 which has an emergency clause attached, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

Floor Amendment No. 2 to the Committee Substitute to **HB 402**, by Representative Coleman:

On page 3, line 9, after "gallon." by inserting: "***At least fifty percent (50%) of these fees shall be made available to the petroleum storage tank account created by KRS 224.60-130(2)(e).***"

Floor Amendment No. 3 to the Committee Substitute to **HB 402**, by Representative Coleman:

On page 1, line 14, by deleting the second "***and***"; and

On line 15, after "***(i)***" by inserting: "***The Director of the Consumer Protection Division, Office of the Attorney General; and***"; and

On line 15, after the foregoing added language, insert "***(j)***" and delete "***Three (3)***" and remove the brackets and strike throughs from "[~~Two (2)~~]".

Floor Amendment No. 9 to **SB 62**, by Representative Riner:

On page 231, after line 19 and before line 20, by adding the following:

"SECTION 177. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) Except for the Department of Education and local school districts, no personally identifiable information on a student shall be released to any person, organization, or corporation without the informed written consent of the parent or guardian.

(2) Any contract to release personally identifiable information on a student in violation of this statute shall be null and void and unenforceable. The Department of Education shall not use public funds to pay for the contract when personally identifiable information is released in violation of this statute.

(3) The Commonwealth of Kentucky, the Department of Education, or any person who is found to have negotiated or approved the release of information or provided the information in violation of this statute shall be jointly and severally liable for damages."; and

On page 231, line 20, after the word "Section", by deleting the number "177" and inserting in its place, "178".

Orders of the Day

HB 591, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Substitute to **HB 591**. Agreed.

Representative Little moved that **HB 591**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0,. (See March 16, 1994 roll call on **HB 591** - Appendix)

HB 591, by way of Committee Substitute, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 591**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 798, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of Committee Amendment No. 1 to **HB 798**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to **HB 798**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 2 to **HB 798**. Agreed.

Representative Nunn moved that **HB 798**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 16, 1994 roll call on **HB 798** - Appendix)

HB 798, as amended, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 798**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 255, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **SB 255**. Agreed.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 255**. Rejected.

Representative Donnermeyer moved that **SB 255**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 1,. (See March 16, 1994 roll call on **SB 255** - Appendix)

SB 255, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 255**, by way of Committee Substitute, was passed be

reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 402**, by Representative Brown:

On page 1, line 14, after "***management;***" by deleting "***and***"; and

on line 15, after "***(i)***" by inserting "***A representative of the Attorney General's Office; and (j)***", and by deleting "***Three (3)***" and by removing the brackets around and strikethrough of "[~~Two (2)~~]".

Floor Amendment No. 1 to **HB 163**, by Representative Johnson:

On page 2, below line 7, to add the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Within ten (10) days after a sale in which the seller is a transient merchant has been canceled or an offer to purchase revoked, the seller shall tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness.

(2) If the down payment includes goods traded in, the goods shall be tendered in substantially as good condition as when received by the seller. If the seller fails to tender the goods as provided by this section, the buyer may elect to recover an amount equal to the trade-in allowance stated in the agreement.

(3) Until the seller has complied with the obligations imposed by this section, the buyer may retain possession of goods delivered to him by the seller and shall have a lien on the goods in his possession or control for any recovery to which he is entitled.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided by the provisions on retention of goods by the buyer in Section 3 of this Act, within a reasonable time after a sale in which the seller is a transient merchant has been canceled or an offer to purchase revoked, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale but he shall not be obligated to tender at any place other than the buyer's residence. If the seller fails to demand possession of goods within a reasonable time after cancellation or revocation, the goods become the property of the buyer without obligation to pay for them. For the purpose of this section, forty (40) days is presumed to be a reasonable time.

(2) The buyer shall take reasonable care of the goods in his possession before cancellation or revocation and for a reasonable time thereafter, during which time the goods are otherwise at the seller's risk.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) In a sale in which the seller is a transient merchant, unless the buyer requests the seller to provide goods or services in an emergency, the seller shall present to the buyer and obtain his signature to a written agreement or offer to purchase which designates as the date of the transaction the date on which the buyer actually signs and contains a statement of the buyer's rights which complies with subsection (2) of this section.

(2) The statement shall:

(a) Appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL," and

(b) Read as follows: "If you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice shall say that you do not want the goods or services and shall be mailed before midnight of the third business day after you sign this agreement. The notice shall be mailed to:

..

.."

(3) Until the seller has complied with this section the buyer may cancel the sale by notifying the seller in any manner and by any means of his intention to cancel. "

Floor Amendment No. 2 to **SB 119**, by Representative Long:

On page 42, after line 1, by adding the following:

"Section 5. KRS 6.230 is amended to read as follows:

Employees of the General Assembly shall receive a per diem as follows: chief clerk, ***ninety***[~~seventy five~~] dollars ***($90)***[~~($75)~~]; assistant clerk, ***eighty***[~~sixty five~~] dollars ***($80)***[~~($65)~~]; enrolling clerk, ***seventy-five***[~~sixty dollars~~] ***($75)***[~~($60)~~]; sergeant-at-arms, ***sixty***[~~fifty~~] dollars ***($60)***[~~($50)~~]; doorkeeper, ***sixty***[~~forty seven~~] dollars ***($60)***[~~($47)~~]; janitors, ***fifty***[~~thirty seven~~] dollars ***($50)***[~~($37)~~]; cloakroom keeper, ***fifty***[~~thirty seven~~] dollars ***($50)***[~~($37)~~]; pages, ***thirty***[~~twenty~~] dollars ***($30)***[~~($20)~~] each."

Floor Amendment No. 2 to the Committee Substitute to **HB 455**, by Representative Long:

On page 4, after line 16 but before line 17, by adding the following:

"*(11) Beginning January 1, 1996, an ad valorem tax for state purposes of fifteen cents ($0.15) upon each one hundred dollars ($100) of value shall be paid upon machinery of individuals or corporations actually engaged in manufacturing.*".

Floor Amendment No. 1 to **HB 856**, by Representative B. Smith:

On page 4, line 7, after "*is*" by inserting "*not*".

Orders of the Day (Continued)

HB 928, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 5 to **HB 928**. Agreed.

Representative Cyrus moved the adoption of Committee Amendment No. 2 to **HB 928**.

On the roll call to adopt Committee Amendment No. 2 to **HB 928**, the vote was **Yeas 53**--Adams, Adkins, Ballard, Bentley, Bondurant, Bowling, Brown, Bruce, Burch, Butler, L. Clark, Clarke, Collins, Crenshaw, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Fox, French, Gee, Geveden, Gray, Hancock, Heleringer, Johnson, Kerr, Lee, Lewis, Lile, Lindsay, Little, Maggard, Marzian, Mason, McElroy, Moberly, Morris, Nelson, Nesler, Rapier, Riner, Scorsone, Scott, Shacklette, Simpson, Stacy, Stumbo, Turner, Wayne, Yates, Zimmerman. **Nays 42**--Ackerson, Allen, Altman, Arnold, Barrows, Bryant, Buis, Callahan, Cave, Coleman, Curd, Farrow, Ford, Graham, Hampton, Harper, Hatcher, Jensen, Keith, Lear, LeMaster, Long, Maricle, Mullinix, Noland, Northup, Nunn, Palumbo, Rasche, Reinhardt, Richards, Ridley, Riggs, B. Smith, R. Smith, Stengel, Todd, Trapp, Treesh, Walton, Worthington.

Committee Amendment No. 2 to **HB 928** was adopted.

Representative Cyrus moved the adoption of Committee Amendment No. 3 to **HB 928**. Agreed.

Representative Cyrus moved the adoption of Committee Amendment No. 4 to **HB 928**. Rejected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **HB 928**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 3 to **HB 928**. Agreed.

Representative Bentley moved the adoption of Floor Amendment No. 6 to **HB 928**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 4 to **HB 928**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 8 to **HB 928**. Agreed.

Representative DeWeese moved the adoption of Floor Amendment No. 10 to **HB 928**. Agreed.

Representative Stumbo moved that **HB 928**, as amended, be passed.

Representative Nunn moved the adoption of Floor Amendment No. 11 to **HB 928.**

On the roll call to adopt Floor Amendment No. 11 to **HB 928**, the vote was **Yeas 31**--Ackerson, Allen, Altman, Bryant, Buis, Damron, DeWeese, Farrow, Ford, Gee, Hancock, Harper, Keith, Lile, Maricle, McElroy, Napier, Nelson, Nesler, Noland, Northup, Nunn, Rasche, Sanders, Scott, B. Smith, Todd, Trapp, Treesh, Turner, Zimmerman. **Nays 36**--Adkins, Barrows, Bondurant, Bowling, Bruce, L. Clark, Clarke, Crenshaw, Curd, Cyrus, Deskins, Fox, French, Geveden, Gray, Hatcher, Heleringer, Johnson, LeMaster, Lindsay, Long, Marzian, Mason, Moberly, Rapier, Reinhardt, Richards, Ridley, Riggs, Riner, Simpson, Stacy, Stengel, Stumbo, Worthington, Yates.

Floor Amendment No. 11 to **HB 928** was rejected.

Representative Treesh moved the adoption of Floor Amendment No. 2 to **HB 928**. Rejected.

Representative Treesh moved the adoption of Floor Amendment No. 15 to **HB 928**. Rejected.

Representative Stacy moved the adoption of Floor Amendment No. 14 to **HB 928**. Rejected.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **HB 928**. Rejected.

Representative Stumbo moved that **HB 928**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 8. (See March 16, 1994 roll call on **HB 928** - Appendix)

HB 928, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 928**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 815 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 815** be passed.

On the roll call the vote was: Yeas 92 , Nays 0 (See March 16 , 1994 roll call on **HB 815** - Appendix)

HB 815 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 815** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 646, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 646**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 1 to **HB 646**. Agreed.

Representative Geveden moved that **HB 646**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0,. (See March 16, 1994 roll call on **HB 646** - Appendix)

HB 646, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 646**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 643 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 643** be passed.

On the roll call the vote was: Yeas 87 , Nays 2 (See March 16 , 1994 roll call on **HB 643** - Appendix)

HB 643 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 643** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 488 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 488** be passed.

On the roll call the vote was: Yeas 86 , Nays 5 (See March 16 , 1994 roll call on **HB 488** - Appendix)

HB 488 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 488** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 738, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 738**. Agreed.

Representative Palumbo moved that **HB 738**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0,. (See March 16, 1994 roll call on **HB 738** - Appendix)

HB 738, by way of Committee Substitute, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 738**, by way of Committee Substitute, was passed be

reconsidered and said motion be placed on the table. Agreed.

HB 675 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jensen moved that **HB 675** be passed.

On the roll call the vote was: Yeas 84 , Nays 1 (See March 16 , 1994 roll call on **HB 675** - Appendix)

HB 675 was passed and the title agreed to.

Representative Jensen moved that the vote by which **HB 675** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 762 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 762** be passed.

On the roll call the vote was: Yeas 87 , Nays 1 (See March 16 , 1994 roll call on **HB 762** - Appendix)

HB 762 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 762** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 893 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 893** be passed.

On the roll call the vote was: Yeas 88 , Nays 3 (See March 16 , 1994 roll call on **HB 893** - Appendix)

HB 893 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 893** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 496, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 496**. Agreed.

Representative Palumbo moved that **HB 496**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0,. (See March 16, 1994 roll call on **HB 496** - Appendix)

HB 496, by way of Committee Substitute, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 496**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 580, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 580**. Agreed.

Representative Reinhardt moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 580**. Agreed.

Representative Marzian moved that **HB 580**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 55, Nays 35,. (See March 16, 1994 roll call on **HB 580** - Appendix)

HB 580, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 580**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 652 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 652** be passed.

On the roll call the vote was: Yeas 83 , Nays 6 (See March 16 , 1994 roll call on **HB 652** - Appendix)

HB 652 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 652** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 851 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HB 851** be passed.

On the roll call the vote was: Yeas 90 , Nays 1 (See March 16 , 1994 roll call on **HB 851** - Appendix)

HB 851 was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 851** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendment (Continued)

Floor Amendment No. 5 to **HB 110**, by Representative Damron:

On page 1, line 14, by deleting lines 14 to 25 and inserting in lieu thereof the following:

"***Minimum staff-child ratios and group size for an operating day care facility which regularly provides day care for thirteen (13) or more children shall be maintained as follows with the age of the youngest child in the group determining the staff-child ratio and maximum group size, if applicable:***

(1) For children age birth to two (2) years, one (1) staff for six (6) children with a maximum group size of twelve (12);

(2) For children age two (2) to three (3) years, one (1) staff for ten (10) children with a maximum group size of twenty (20);

(3) For children age three (3) to four (4) years, one (1) staff for twelve (12) children with a maximum group size of twenty-four (24);

(4) For children age four (4) to five (5) years, one (1) staff for fourteen (14) children with a maximum group size of twenty-eight (28);

(5) For children age five (5) to seven (7) years, one (1) staff for fifteen (15) children with a maximum group size of thirty (30);

(6) For children age seven (7) years and older if care is provided for a full day, one (1) staff for twenty (20) children with a maximum group size of thirty (30); or

(7) For children age seven (7) years and older if care is provided before or after school, one (1) staff for twenty-five (25) children with a maximum group size of thirty (30).";

And on page 2, by deleting line 1 in its entirety.

Orders of the Day (Continued)

HB 624, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **HB 624**. Agreed.

Representative Cyrus moved that **HB 624**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 73, Nays 14,. (See March 16, 1994 roll call on **HB 624** - Appendix)

HB 624, by way of Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 624**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 70, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Committee Amendment No. 1 to **HCR 70**. Agreed.

Representative Palumbo moved that **HCR 70**, as amended, be adopted.

On the roll call the vote was: Yeas 71, Nays 14. (See March 16, 1994 roll call on **HCR 70** - Appendix)

HCR 70, as amended, was adopted.

Representative Palumbo moved the adoption of the Committee Title Amendment to **HCR 70**. Agreed; and the title was agreed to.

Representative Palumbo moved that the vote by which **HCR 70**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 680, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 680**. Agreed.

Representative Burch moved that **HB 680**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 4. (See March 16, 1994 roll call on **HB 680** - Appendix)

HB 680, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 680**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 221**, by Representative Lear:

On page 6, before the semicolon, by inserting: "*. The Governmental Services Center shall develop a survey to measure employee support for the proposed pilot programs. In organizational units for which pilot programs are considered, the Governmental Services Center shall also devise a process which insures confidentiality in the administration of and the tabulation of the results of the survey*".

Orders of the Day (Continued)

HJR 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HJR 75** be adopted.

On the roll call the vote was: Yeas 88 , Nays 0 (See March 16 , 1994 roll call on **HJR 75** - Appendix)

HJR 75 was adopted.

Representative Coleman moved that the vote by which **HJR 75** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 86 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HJR 86** be adopted.

On the roll call the vote was: Yeas 89 , Nays 0 (See March 12 , 1994 roll call on **HJR 86** - Appendix)

HJR 86 was adopted.

Representative Lee moved that the vote by which **HJR 86** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 374, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 374**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute on **HB 374**. Rejected.

Representative Nunn moved that **HB 374**, by way of Committee Substitute, be passed.

Representative Lindsay moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 374**.

Representative Bruce moved that **HB 374** be laid on the Clerk's Desk. Rejected.

Representative Lindsay moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 374**.

On the roll call to adopt Floor Amendment No. 2 to the Committee Substitute to **HB 374**, the vote was **Yeas 37**–Bondurant, Bruce, Bryant, L. Clark, Curd, DeWeese, Ford, Gedling, Geveden, Gray, Hampton, Harper, Hatcher, Johnson, Kerr, Lee, Lewis, Lindsay, Little, Maggard, Maricle, Moberly, Morris, Nesler, Rapier, Reinhardt, Richards, Ridley, Sanders, Shacklette, Simpson, R. Smith, Stacy, Stengel, Stumbo, Treesh, Walton, Worthington, Yates. **Nays 42**–Ackerson, Allen, Altman, Barrows, Bentley, Brown, Buis, Burch, Callahan, Cave, Coleman, Crenshaw, Cyrus, Damron, Deskins, Donnermeyer, Farrow, Gee, Graham, Heleringer, Keith, Lear, LeMaster, Lile, Long, Marzian, Mason, McElroy, Napier, Northup, Nunn, Rasche, Scorsone, Scott, B. Smith, Todd, Trapp, Turner, Wayne, Zimmerman.

Floor Amendment No. 2 to the Committee Substitute to **HB 374** was rejected.

Representative Nunn moved that **HB 374**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 54, Nays 24,. (See March 16, 1994 roll call on **HB 374** - Appendix)

HB 374, by way of Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 374**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 903** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that **HB 771** be recommitted to the Committee Business Organizations and Professions. Agreed.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the three day posting requirement be waived on **HCR 98, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103, HCR 104, HB 727, SB 100, SB 271** and **SB 280**. Agreed.

Representative Stumbo moved that **HB 775** be placed in the Orders of the Day for March 17, 1994. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 225**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 520**. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 100**

Labor and Industry: **SB 280**

State Government: **SB 225**

Economic Development: **SJR 68, SCR 86**

Tourism Development and Energy: **SB 168**

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 587**, by Representative Hancock:

On page 3, line 20, to delete "***15***" and to insert in lieu thereof "***16***"; and

On page 4, line 12, to delete "***15***" and to insert in lieu thereof "***16***"; and

On page 5, line 2, to delete "***15***" and to insert in lieu thereof "***16***"; and

On page 7, line 15, to delete "***15***" and to insert in lieu thereof "***16***"; and

On page 7, line 25, to delete "***15***" and to insert in lieu thereof "***16***"; and

On page 15, between lines 2 and 3, to add the following:

SECTION 15. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

In order to ascertain whether or not the provisions of statutes relating to dumping of refuse materials, solid waste, tree stumps, or other matter into the waters of the Commonwealth is in violation of law, the Division of Water Patrol shall routinely patrol the waters under its jurisdiction in order to identify and mark by buoy or other visible marking, any unremovable object that may be a hazard to navigation, and attempt to ascertain whether it was placed in the waters of the

Commonwealth in violation of the law, and by whom. If the hazard is removable, the Water Patrol shall mark the hazard by buoy or other visible marking, shall attempt to ascertain whether it was placed in the waters of the Commonwealth in violation of the law, and by whom, and shall contact the Army Corps of Engineers in order to provide for the removal of the hazard."; and

On page 15, line 3, to delete "15" and to insert in lieu thereof "16"."

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended to correct the Journal to reflect that **SB 140** rather than **HB 811** was reported favorably out of the Committee on Counties and Special Districts on March 15, 1994.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 115**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to Woodrow Burchett and his many cherished years of sharing his legal knowledge and country spun wisdom with his fellow man. For inasmuch as man is indeed his brother's keeper, Woodrow Burchett, "the Sage of Cow Creek" has truly been the rare individual whose life represents the public servant who has generously given of his talents and unique philosophies to the great Commonwealth of Kentucky and to the sovereign county of Floyd. Whereas, Woodrow Burchett is friend to Governor and beggar alike and this Honorable Body acknowledges the eighty-third birthday and congratulates said recipient for an consequential timeline of monumental merit.

Representative Scott moved that **HB 817** be withdrawn. Agreed.

Representative Harper moved the adoption of the following **Legislative Citation No. 112**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its congratulations to Blessed Sacrament School in recognition of the nomination for being a Blue Ribbon School. Blessed Sacrament School, in Fort Mitchell, Kentucky has sustained its reputation for excellence in all phases of curriculum, parent volunteers, teacher innovation, student motivation, discipline methods and much more. The nomination as a finalist for The Blue Ribbon Award this fall is testament to the quality of education to be found in Kentucky. The entire membership joins Representative Ken Harper in commending Blessed Sacrament School for their nomination and for being a significant source of pride to the great Commonwealth of Kentucky.

Representative Farrow moved the adoption of the following **Legislative Citation No. 116**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Randy Wade, Young Farmer Association. Winning the 1994 regional YFA tile in the Young Farmer Association's Member of the Year Contest and representing the Bluegrass Region is an important accomplishment. Using new innovations and technology in your operation and running your farm efficiently earned you this title. The entire membership joins Representative Mark Farrow in commending you for your superior farming, and extending its very best wishes on this memorable occasion.

Representative Farrow moved the adoption of the following **Legislative Citation No. 117**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Daniel Smith, winner of the 1994 Louisville Courier-Journal Future Farmers of America Award. The entire membership joins Representative Mark Farrow in congratulating Daniel Smith for his leadership, involvement in the community and agricultural projects, and for being Scott County, Kentucky's first recipient of this prestigious honor, which is an outstanding accomplishment. This eminent body would like to also extend its very best wishes on this memorable occasion and expresses the hope for continued good fortune.

Representative Damron moved that **HB 870** be withdrawn. Agreed.

Representative Gray moved the adoption of the following **Legislative Citation No. 114**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest condolences to The Laramie L. Leatherman Family on the passing of Laramie L. Leatherman. The entire membership joins Representative Leonard Gray on this mournful occasion in memory of a staunch member and partner of the Greenebaum Doll & McDonald Law Firm. Laramie L. Leatherman was known and respected as an outstanding (tax) practitioner, community advocate and a man of honesty and integrity. This prestigious body would like to further extend our most heart felt regrets to the Leatherman family for the loss of their dear loved one and one of the great Commonwealth's most prominent citizens..

The following members filed requests to have their names added as co-sponsors to the following Bills under rules previously suspended: **HB 691**, Representative L. Clark; **HB 910**, **HB 912**, Representative Donnermeyer.

The following member filed a request to have her name withdrawn as co-sponsor to a Bill: **HB 928**, Representative Northup.

Representative Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Arnold moved that he be recorded as voting "yea" on **HB 814**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 851**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that his vote be changed from "nay" to "yea" on **HB 810**. Agreed.

Representative B. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that his vote be changed from "nay" to "yea" on **HB 488**. Agreed.

Representative Zimmerman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Zimmerman moved that he be recorded as voting "yea" on **HB 646**. Agreed.

Representative Harper moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Harper moved that he be recorded as voting "nay" on **HB 202, HB 787** and **HB 929**. Agreed.

Representative Harper moved that he be recorded as voting "yea" on **HB 390, HB 405, HB 481, HB 538, HB 556, HB 588, HB 630, HB 647, HB 681, HB 685, HB 713, HB 715, HB 726, HB 742, HB 744, HB 760, HB 767, HB 776, HB 810, HB 826, HB 830, HB 836, HB 852, HB 864, HB 867, HB 875, HB 889, HB 890, HB 891 HB 900, HB 904, HCR 84** and **SB 242**. Agreed.

Announcements

The Clerk announced the following meetings:

Education, upon adjournment, confirmation hearings

Committee on Rules, upon adjournment, Speaker's Office

Health and Welfare, upon adjournment Room 131

Banking and Insurance, upon adjournment, March 16, 1994

Judiciary, 8:30 a.m., March 16, 1994

Labor and Industry, 8:30 a.m., March 16, 1994

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 17, 1994.

On the roll call the vote was **Yeas 71**--Adams, Adkins, Allen, Arnold, Ballard, Barrows, Bentley, Bondurant, Brown, Bryant, Butler, Callahan, Cave, P. Clark, Clarke, Coleman, Crenshaw, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Harper, Hatcher, Johnson, Kerr, Lear, Lee, Lewis, Lindsay, Marzian, Mason, McElroy, Moberly, Morris, Nelson, Nesler, Northup, Nunn, Palumbo, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 4**--Hancock, LeMaster, Lile, Rapier.

The motion to adjourn was adopted.

THURSDAY, MARCH 17, 1994

FORTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Frank Martin, Church of Ascension, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representative Lyne.

Senate Message

Announcing passage of **SB 272, SB 311, SB 348, SB 367** and **HB 508**. Message received on **HB 34, HB 41, HB 64** and **HB 511**: The Senate has passed **HB 34** with Senate Committee Amendment, **HB 41** with Senate Floor Amendment, **HB 64** with Senate Committee Amendment, and **HB 511** with Senate Committee Amendment, and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 16, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 106, by Representative Farrow: A RESOLUTION in honor of the seventy fifth anniversary of the Kentucky Farm Bureau and the fiftieth anniversary of Kentucky Farm Bureau Insurance Companies.

HR 107, by Representative Barrows and Hancock: A RESOLUTION to encourage the President and the United States Congress to re-examine United States foreign policy towards Ethiopia.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Banking and Insurance: **SB 308**

Elections and Constitutional Amendments: **SB 245, SB 256**

Judiciary: **SB 213**

State Government: **SCR 74**

Report of Committees

The Committee on Rules reported that **HB 419, HB 444, HB 631, HB 674, HB 725, HB 842, HB 871, HB 922, HR 65, HB 678, HB 690, HB 697, HB 924, HB 926, HB 940, HCR 73, HB 633, HB 728, HB 48, HB 98, HB 283, HB 402, HB 408, HB 433, HB 517, HB 559, HB 626, HB 683, HB 811, HB 832, HB 888** and **HB 901** have been posted for passage in Orders of the Day, March 18, 1994.

The Committee on Rules reported the following Bill has been recommitted: Appropriations and Revenue: **HB 605**

Report of Committees (Continued)

The Committee on Education reported **HCR 42, HCR 95, HCR 96, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103** and **HCR 104** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 42, A CONCURRENT RESOLUTION consenting to the appointment of Barry Bingham, Jr., to the Governor's Higher Education Nominating Committee.

WHEREAS, KRS 164.005 directs the Governor to appoint the seven (7) members of the Governor's Higher Education Nominating Committee with the consent of the House of Representatives and the Senate; and

WHEREAS, KRS 164.005 further requires that the seven (7) nominating committee members represent each of the Supreme Court districts in Kentucky; and

WHEREAS, in Executive Order 93-356, the Governor appointed Barry Bingham, Jr., to the Higher Education Nominating Committee representing the Fourth Supreme Court District for a term expiring April 14, 1994; and

WHEREAS, by letter of January 12, 1994, the Governor has submitted Mr. Bingham's appointment to the General Assembly, for its consent; and

WHEREAS, the House of Representatives and the Senate find that Barry Bingham, Jr. meets the requirements of KRS 164.005, having no conflict of interest pursuant to KRS 45A.340, nor having a relative employed by a public institution of higher education or the Council of Higher Education, nor holding an undergraduate degree from the same institution of higher education as another member of the nominating committee; and

WHEREAS, the House of Representatives and the Senate further find, pursuant to KRS 164.005(2)(b), that the appointment of Mr. Bingham, in combination with the other appointments to the Governor's Higher Education Nominating Committee, reflects no less than proportional representation of the minority racial composition of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do consent to the appointment of Barry Bingham, Jr., to the Governor's Higher Education Nominating Committee for a term expiring April 14, 1994.

Section 2. That, pursuant to KRS 11.160(2), the clerk of the House of Representatives shall forward a copy of this Resolution, together with written notice of its adoption, to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Mr. Barry Bingham, Jr., Post Office Box 64, Glenview, Kentucky 40025.

HCR 95, A CONCURRENT RESOLUTION consenting to the appointment of Henry M. Mann to the Governor's Higher Education Nominating Committee.

WHEREAS, KRS 164.005 directs the Governor to appoint the seven (7) members of the Governor's Higher Education Nominating Committee with the consent of the House of Representatives and the Senate; and

WHEREAS, KRS 164.005 further requires that the seven (7) nominating committee members represent each of the Supreme Court districts in Kentucky; and

WHEREAS, in Executive Order 94-217, the Governor appointed Henry M. Mann to the Higher Education Nominating Committee representing the Sixth Supreme Court District for a term expiring April 14, 2000; and

WHEREAS, by letter of March 2, 1994, the Governor has submitted Mr. Mann's appointment to the General Assembly, for its consent; and

WHEREAS, the House of Representatives and the Senate find that Henry M. Mann meets the requirements of KRS 164.005, having no conflict of interest pursuant to KRS 45A.340, nor having a relative employed by a public institution of higher education or the Council of Higher Education, nor holding an undergraduate degree from the same institution of higher education as another member of the nominating committee; and

WHEREAS, the House of Representatives and the Senate further find, pursuant to KRS 164.005(2)(b), that the appointment of Mr. Mann, in combination with the other appointments to the Governor's Higher Education Nominating Committee, reflects no less than proportional representation of the minority racial composition of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do consent to the appointment of Henry M. Mann to the Governor's Higher Education Nominating Committee for a term expiring April 14, 2000.

Section 2. That, pursuant to KRS 11.160(2), the Clerk of the House of Representatives shall forward a copy of this Resolution, together with written notice of its adoption, to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Mr. Henry M. Mann, 111 West Lakeside Avenue, Lakeside Park, Kentucky 41017.

HCR 96, A CONCURRENT RESOLUTION consenting to the appointment of Barry Bingham, Jr., to the Governor's Higher Education Nominating Committee.

WHEREAS, KRS 164.005 directs the Governor to appoint the seven (7) members of the Governor's Higher Education Nominating Committee with the consent of the House of Representatives and the Senate; and

WHEREAS, KRS 164.005 further requires that the seven (7) nominating committee members represent each of the Supreme Court districts in Kentucky; and

WHEREAS, in Executive Order 93-356, the Governor appointed Barry Bingham, Jr., to the Higher Education Nominating Committee representing the Fourth Supreme Court District for a term expiring April 14, 1994, and, by Executive Order 94-217, has reappointed Mr. Bingham for a term expiring April 14, 2000; and

WHEREAS, by letter of March 2, 1994, the Governor has submitted Mr. Bingham's reappointment to the General Assembly, for its consent; and

WHEREAS, the House of Representatives and the Senate find that Barry Bingham, Jr., meets the requirements of KRS 164.005, having no conflict of interest pursuant to KRS 45A.340, nor having a relative employed by a public institution of higher education or the Council of Higher Education, nor holding an undergraduate degree from the same institution of higher education as another member of the nominating committee; and

WHEREAS, the House of Representatives and the Senate further find, pursuant to KRS 164.005(2)(b), that the appointment of Mr. Bingham, in combination with the other appointments to the Governor's Higher Education Nominating Committee, reflects no less than proportional representation of the minority racial composition of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do consent to the appointment of Barry Bingham, Jr., to the Governor's Higher Education Nominating Committee for a term expiring April 14, 2000.

Section 2. That, pursuant to KRS 11.160(2), the Clerk of the House of Representatives shall forward a copy of this Resolution, together with written notice of its adoption, to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Mr. Barry Bingham, Jr., Post Office Box 64, Glenview, Kentucky 40025.

HCR 99, A CONCURRENT RESOLUTION confirming the appointment of Craig True to the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that the State Board for Elementary and Secondary Education shall consist of eleven (11) members, four (4) of whom shall represent the state at large and seven (7) of whom shall represent each of the Supreme Court districts, appointed by the Governor, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, in Executive Order 94-239, dated March 11, 1994, Governor Brereton C. Jones reappointed Craig True, CPA, to represent the Sixth Supreme Court District on the State Board for Elementary and Secondary Education for a term expiring April 14, 1998; and

WHEREAS, the Governor has submitted to the General Assembly for its confirmation the appointment of Craig True to the State Board for Elementary and Secondary Education; and

WHEREAS, the House of Representatives and the Senate find that Mr. True meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Craig True as a member of the State Board for Elementary and Secondary Education, representing the Sixth Supreme Court District, for a term expiring April 14, 1998.

Section 2. That, pursuant to KRS 11.160, the Clerk of the House of Representatives shall forward a copy of this Resolution, with written notification of its adoption, to Mr. Craig True, CPA, 10 Memory Lane, Fort Thomas, Kentucky 41075, and to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 100, A CONCURRENT RESOLUTION confirming the appointment of Joseph W. Kelly to the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that the State Board for Elementary and Secondary Education shall consist of eleven (11) members, four (4) of whom shall represent the state at large and seven (7) of whom shall represent each of the Supreme Court districts, appointed by the Governor, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, in Executive Order 94-239, dated March 11, 1994, Governor Brereton C. Jones reappointed Joseph W. Kelly to represent the Fifth Supreme Court District on the State Board for Elementary and Secondary Education for a term expiring April 14, 1998; and

WHEREAS, the Governor has submitted to the General Assembly for its confirmation the appointment of Joseph W. Kelly to the State Board for Elementary and Secondary Education; and

WHEREAS, the House of Representatives and the Senate find that Mr. Kelly meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Joseph W. Kelly as a member of the State Board for Elementary and Secondary Education, representing the Fifth Supreme Court District, for a term expiring April 14, 1998.

Section 2. That, pursuant to KRS 11.160, the Clerk of the House of Representatives shall forward a copy of this Resolution, with written notification of its adoption, to Mr. Joseph W. Kelly, Columbia Gas of Kentucky, 70 Fountain Place, Frankfort, Kentucky 40601, and to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 101, A CONCURRENT RESOLUTION confirming the appointment of Helen W. Mountjoy to the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that the State Board for Elementary and Secondary Education shall consist of eleven (11) members, four (4) of whom shall represent the state at large and seven (7) of whom shall represent each of the Supreme Court districts, appointed by the Governor, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, in Executive Order 94-239, dated March 11, 1994, Governor Brereton C. Jones reappointed Helen W. Mountjoy to represent the Second Supreme Court District on the State Board for Elementary and Secondary Education for a term expiring April 14, 1998; and

WHEREAS, the Governor has submitted to the General Assembly for its confirmation the appointment of Helen W. Mountjoy to the State Board for Elementary and Secondary Education; and

WHEREAS, the House of Representatives and the Senate find that Ms. Mountjoy meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Helen W. Mountjoy as a member of the State Board for Elementary and Secondary Education, representing the Second Supreme Court District, for a term expiring April 14, 1998.

Section 2. That, pursuant to KRS 11.160, the Clerk of the House of Representatives shall forward a copy of this Resolution, with written notification of its adoption, to Ms. Helen W. Mountjoy, 449 Browns Valley Road, Utica, Kentucky 42376, and to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 102, A CONCURRENT RESOLUTION confirming the appointment of Margaret G. Pope to the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that the State Board for Elementary and Secondary Education shall consist of eleven (11) members, four (4) of whom shall represent the state at large and seven (7) of whom shall represent each of the Supreme Court districts, appointed by the Governor, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, in Executive Order 94-239, dated March 11, 1994, Governor Brereton C. Jones reappointed Margaret Pope to represent the First Supreme Court District on the State Board for Elementary and Secondary Education for a term expiring April 14, 1998; and

WHEREAS, the Governor has submitted to the General Assembly for its confirmation the appointment of Margaret Pope to the State Board for Elementary and Secondary Education; and

WHEREAS, the House of Representatives and the Senate find that Ms. Pope meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate

concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Margaret G. Pope as a member of the State Board for Elementary and Secondary Education, representing the First Supreme Court District, for a term expiring April 14, 1998.

Section 2. That, pursuant to KRS 11.160, the Clerk of the House of Representatives shall forward a copy of this Resolution, with written notification of its adoption, to Ms. Margaret G. Pope, 450 Friedman Lane, Paducah, Kentucky 42001, and to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 103, A CONCURRENT RESOLUTION confirming the appointment of Jane Adams Venters to the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that the State Board for Elementary and Secondary Education shall consist of eleven (11) members, four (4) of whom shall represent the state at large and seven (7) of whom shall represent each of the Supreme Court districts, appointed by the Governor, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, in Executive Order 94-239, dated March 11, 1994, Governor Brereton C. Jones appointed Jane Adams Venters to represent the Third Supreme Court District on the State Board for Elementary and Secondary Education for a term expiring April 14, 1998; and

WHEREAS, the Governor has submitted to the General Assembly for its confirmation the appointment of Jane Adams Venters to the State Board for Elementary and Secondary Education; and

WHEREAS, the House of Representatives and the Senate find that Ms. Venters meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Jane Adams Venters as a member of the State Board for Elementary and Secondary Education, representing the Third Supreme Court District, for a term expiring April 14, 1998.

Section 2. That, pursuant to KRS 11.160, the Clerk of the House of Representatives shall forward a copy of this Resolution, with written notification of its adoption, to Ms. Jane Adams Venters, 302 North Maple Street, Somerset, Kentucky 42501, and to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 104, A CONCURRENT RESOLUTION confirming the appointment of Thomas Edward Gish to the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that the State Board for Elementary and Secondary Education shall consist of eleven (11) members, four (4) of whom shall represent the state at large and seven (7) of whom shall represent each of the Supreme Court districts, appointed by the Governor, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, in Executive Order 94-239, dated March 11, 1994, Governor Brereton C. Jones reappointed Thomas Edward Gish to represent the Seventh Supreme Court District on the State Board for Elementary and Secondary Education for a term expiring April 14, 1998; and

WHEREAS, the Governor has submitted to the General Assembly for its confirmation the appointment of Thomas Edward Gish to the State Board for Elementary and Secondary Education; and

WHEREAS, the House of Representatives and the Senate find that Mr. Gish meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do confirm the appointment of Thomas Edward Gish as a member of the State Board for Elementary and Secondary Education, representing the Seventh Supreme Court District, for a term expiring April 14, 1998.

Section 2. That, pursuant to KRS 11.160, the Clerk of the House of Representatives shall forward a copy of this Resolution, with written notification of its adoption, to Mr. Thomas Edward Gish, Post Office Box 130, Thornton, Kentucky 41855 and to Governor Brereton C. Jones, Room 100, State Capitol, Frankfort, Kentucky 40601.

The Committee on Judiciary reported **HB 727,** with Committee Substitute attached thereto, **HB 821,** with Committee Substitute attached thereto, **SB 29,** with Committee Substitute attached thereto, **SB 89, SB 153,** with Committee Substitute attached thereto, **SB 172, SB 184,** with Committee Substitute attached thereto, and **SB 186** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 727, AN ACT relating to legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.130 is amended to read as follows:

(1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten (10) days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event.

(c) Excepting ***agencies of the Commonwealth of Kentucky and*** counties with a city of the first class, when an advertisement is for the purpose of informing the public and the advertisement is of a sale of property or is a notice of delinquent taxes, the advertisement shall be published once a week for three (3) successive weeks. ***Notwithstanding the provisions of KRS 424.120, when an agency of the Commonwealth of Kentucky advertises the sale of personal property, the advertisement, at a minimum, shall be published once in a newspaper circulated in the county where the personal property shall be sold. When an agency of the Commonwealth advertises the sale of real property, the advertisement, at a minimum, shall be published once a week for two (2) consecutive weeks in a newspaper circulated in the county where the real property shall be sold.*** For counties containing a city of the first class, when an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once, preceded by a one-half (1/2) page notice of advertisement the preceding week. The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

(d) Any advertisement not coming within the scope of paragraph (a), (b) or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

The Committee Substitute to **HB 727** is as follows:

HB 727, AN ACT relating to legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.130 is amended to read as follows:

(1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one (1) time only and within thirty (30) days after completion of the act. However, a failure to comply with this paragraph shall not subject a person to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten (10) days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event.

(c) Excepting *agencies of the Commonwealth of Kentucky and* counties with a city of the first class, when an advertisement is for the purpose of informing the public and the advertisement is of a sale of property or is a notice of delinquent taxes, the advertisement shall be published once a week for three (3) successive weeks. *Notwithstanding the provisions of KRS 424.120, when an agency of the Commonwealth of Kentucky advertises the sale of personal property, the advertisement, at a minimum, shall be published once in the newspaper with the largest circulation in the county where the personal property shall be sold. When an agency of the Commonwealth advertises the sale of real property, the advertisement, at a minimum, shall be published once a week for two (2) consecutive weeks in the newspaper with the largest circulation in the county where the real property shall be sold and the county in which the real property is located.* For counties containing a city of the first class, when an advertisement is for the purpose of informing the public and the advertisement is a notice of delinquent taxes, or notice of the sale of tax claims, the advertisement shall be published once, preceded by a one-half (1/2) page notice of advertisement the preceding week. The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

(d) Any advertisement not coming within the scope of paragraph (a), (b) or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the occurrence of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time for the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced.

HB 821, AN ACT relating to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to protect the rights of property owners from government actions regulating the use of private property that may result in a constitutional taking of private property.

(2) It is not the intent of the General Assembly to enlarge or reduce the scope of private property protection afforded by the Constitution of the United States and the Kentucky Constitution.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

(1) "Constitutional taking" means the taking of private property by government action in a manner or for the purpose of requiring compensation to the owner of that property by:

(a) The Fifth or Fourteenth Amendment to the Constitution of the United States; or

(b) Section 13 or Section 242 of the Kentucky Constitution;

(2) "Diminution in value" means a five percent (5%) reduction in the fair market value of real property due to government action;

(3) "Fair market value" means the fair market value on the effective date of the government action;

(4) (a) "Government action" means the taking effect of:

1. A statute, ordinance, regulation, rule, guideline, or policy; or

2. The denial of a permit, license, authorization, or government permission;

(b) "Government action" shall not include:

1. The formal exercise of the power of eminent domain pursuant to KRS Chapter 416;

2. The forfeiture or seizure of private property by a law enforcement agency as evidence of a crime or a violation of law; or

3. The discontinuance of a government program;

(5) "Government unit" means the Commonwealth of Kentucky or any of its political subdivisions; and

(6) "Owner" means the owner of the real property on the effective date of the government action;

(7) "Private property" means real property, or improvements to real property, not owned by the federal government, the Commonwealth of Kentucky, or a public agency.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The owner shall have a cause of action against a government unit for diminution in value of the owner's real property.

(2) A Circuit Court in a county where the real property is located shall have exclusive jurisdiction of the suit, and the owner shall be entitled to trial by jury.

(3) Except as provided in subsection (4) of this section, if the owner prevails, he shall receive money damages equal to:

(a) The diminution in value of the property, and retain title thereto; or

(b) The fair market value of the real property, and transfer title to the government unit upon payment of the fair market value.

(4) If prior to final judgment the government unit reverses its government action, the owner shall be awarded reasonable costs, including reasonable attorney's fees, incurred in connection with the legal action, together with any economic losses sustained by reason of the government action giving rise to the legal action.

(5) (a) The owner shall receive no damages if his use or proposed use of real property is a public nuisance.

(b) The government unit shall bear the burden of proof with respect to this affirmative defense.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "person" means a person having an interest in real property which is, or will be, adversely affected by a particular government action.

(2) A person shall have a cause of action against a government unit to invalidate the particular government action which fails to substantially advance its stated government purpose.

(3) The cause of action may be pleaded in the alternative in a complaint containing the cause of action created pursuant to Section 3 of this Act.

(4) A Circuit Court in a county where the real property is located shall have exclusive jurisdiction of the suit, and the owner shall be entitled to trial by jury.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The statute of limitations for actions brought pursuant to Section 3 or 4 of this Act shall be six (6) years from the government action.

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

A court, in issuing a final order in an action brought pursuant to Section 3 or 4 of this Act, shall award to a prevailing, or substantially prevailing, plaintiff reasonable costs, including reasonable attorney's fees, incurred in connection with the legal action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act shall not restrict any right or remedy a person may have under state or federal statute or constitution.

Section 8. This Act shall apply to a government action in effect on or after the Act's effective date.

The Committee Substitute to **HB 821** is as follows:

HB 821, AN ACT relating to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to protect the rights of agricultural property owners from government actions regulating the use of private property that may result in a constitutional taking of private property.

(2) It is not the intent of the General Assembly to enlarge or reduce the scope of private property protection afforded by the Constitution of the United States and the Kentucky Constitution.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

(1) "Constitutional taking" means the taking of agricultural private property by government action in a manner or for the purpose of requiring compensation to the owner of that property by:

(a) The Fifth or Fourteenth Amendment to the Constitution of the United States; or

(b) Section 13 or Section 242 of the Kentucky Constitution;

(2) "Diminution in value" means a five percent (5%) reduction in the fair market value of agricultural real property due to government action;

(3) "Fair market value" means the fair market value on the effective date of the government action;

(4) (a) "Government action" means the taking effect of:

1. A statute, ordinance, regulation, rule, guideline, or policy; or

2. The denial of a permit, license, authorization, or government permission;

(b) "Government action" shall not include:

1. The formal exercise of the power of eminent domain pursuant to KRS Chapter 416;

2. The forfeiture or seizure of private property by a law enforcement agency as evidence of a crime or a violation of law; or

3. The discontinuance of a government program;

(5) "Government unit" means the Commonwealth of Kentucky or any of its political subdivisions; and

(6) "Owner" means the owner of the real property on the effective date of the government action;

(7) "Private property" means agricultural real property, or improvements to real property, not owned by the federal government, the Commonwealth of Kentucky, or a public agency.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The owner shall have a cause of action against a government unit for diminution in value of the owner's agricultural real property.

(2) A Circuit Court in a county where the real property is located shall have exclusive jurisdiction of the suit, and the owner shall be entitled to trial by jury.

(3) Except as provided in subsection (4) of this section, if the owner prevails, he shall receive money damages equal to:

(a) The diminution in value of the property, and retain title thereto; or

(b) The fair market value of the real property, and transfer title to the government unit upon payment of the fair market value.

(4) If prior to final judgment the government unit reverses its government action, the owner shall be awarded reasonable costs, including reasonable attorney's fees, incurred in connection with the legal action, together with any economic losses sustained by reason of the government action giving rise to the legal action.

(5) (a) The owner shall receive no damages if his use or proposed use of real property is a public nuisance.

(b) The government unit shall bear the burden of proof with respect to this affirmative defense.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "person" means a person having an interest in real property which is, or will be, adversely affected by a particular government action.

(2) A person shall have a cause of action against a government unit to invalidate the particular government action which fails to substantially advance its stated government purpose.

(3) The cause of action may be pleaded in the alternative in a complaint containing the cause of action created pursuant to Section 3 of this Act.

(4) A Circuit Court in a county where the real property is located shall have exclusive jurisdiction of the suit, and the owner shall be entitled to trial by jury.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The statute of limitations for actions brought pursuant to Section 3 or 4 of this Act shall be six (6) years from the

government action.

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

A court, in issuing a final order in an action brought pursuant to Section 3 or 4 of this Act, shall award to a prevailing, or substantially prevailing, plaintiff reasonable costs, including reasonable attorney's fees, incurred in connection with the legal action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act shall not restrict any right or remedy a person may have under state or federal statute or constitution.

Section 8. This Act shall apply to a government action in effect on or after the Act's effective date.

SB 29, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 524 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of retaliating against a juror when he engages, or threatens to engage, in conduct causing, or intended to cause, bodily injury or damage to the tangible property of a juror, a person he believes may be called as a juror, or who has served as a juror as a result of a person's service, actions, or decisions as a juror.

(2) Retaliating against a juror is a Class A misdemeanor.

The Committee Substitute to **SB 29** is as follows:

SB 29, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 524 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of retaliating against a juror when he engages, or threatens to engage, in conduct causing, or intended to cause, bodily injury or damage to the tangible property of a juror, a person he believes may be called as a juror, or who has served as a juror as a result of a person's service, actions, or decisions as a juror.

(2) Retaliating against a juror is a Class A misdemeanor.

Section 2. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is ***three hundred dollars ($300)*** [~~$100~~] or more, in which case it is a Class D felony.

SB 89, AN ACT relating to business and commercial frauds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall have concurrent authority with the county attorney for the enforcement of the following statute: KRS 517.040, Bait Advertising.

SB 153, AN ACT relating to theft by deception.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

   (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ten dollars ($10), if the instrument is paid. ***The fee collected shall be public funds, shall not be for personal use, and shall be used only to defray the costs of operating the office.***

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (5) or (6) of this section is three hundred dollars ($300) or more, in which case it is a Class D felony.

The Committee Substitute to **SB 153** is as follows:

SB 153, AN ACT relating to theft by deception.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ten dollars ($10), if the instrument is paid. ***The fee collected shall be public funds, shall not be for personal use, and shall be used only to defray the costs of operating the office. Excess fees shall be turned over to the county treasurer for use by the fiscal court of the county.***

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (5) or (6) of this section is three hundred dollars ($300) or more, in which case it is a Class D felony.

SB 172, AN ACT relating to crimes and punishment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 530.020 is amended to read as follows:

(1) A person is guilty of incest when he has sexual intercourse ***or deviate sexual intercourse, as defined in KRS 510.010,*** with a person whom he knows to be an ancestor, descendant, brother or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, and relationship of stepparent and stepchild.

(2) Incest is a Class C felony.

SB 184, AN ACT relating to commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 275 IS ESTABLISHED AND A SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

A limited liability company may be organized under this chapter for any lawful purpose, including the provision of one (1) or more professional services conducted in or outside the Commonwealth. Except as otherwise provided in Section 30 of this Act, if the purpose for which a limited liability company is organized or its activities make it subject to one (1) or more special provisions of law, the limited liability company shall also comply with those provisions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Except as otherwise set forth in this chapter or unless the articles of organization or operating agreement provide otherwise, every limited liability company shall have the powers to do all things necessary or convenient to carry out its business and affairs. Professional limited liability companies shall be governed by the laws, whether statutory or common law, applicable to other limited liability companies. Except for those provisions concerning the personal liability of members, managers, employees, and agents of a limited liability company, nothing in this chapter shall restrict, limit, or expand in any manner the authority and duty of any regulating board to:

(1) License individual persons providing professional services; and

(2) Regulate the practice of persons providing professional services which are within the jurisdiction of the regulating board, even though the persons are members, managers, employees, or agents of a professional limited liability company, or provide professional services through a professional limited liability company, including the establishment of regulations concerning:

(a) The qualifications of members or managers of a professional limited liability company;

(b) The transfer of limited liability company interests in a professional limited liability company; or

(c) The provision of one (1) or more professional services through a professional limited liability company.

SECTION 3. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" means the articles filed in conformity with the provisions of Sections 4 and 5 of this Act, and those articles as amended or restated.

(2) "Business entity" means domestic and foreign limited liability companies, general and limited partnerships, corporations, business trusts, and sole proprietorships.

(3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country.

(4) "Court" means every court having jurisdiction in the case.

(5) "Event of disassociation" means an event that causes a person to cease to be a member as provided in Section 56 of this Act.

(6) "Foreign limited liability company" means an organization that is:

(a) An unincorporated association;

(b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and

(c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity.

(7) "Knowledge" means actual knowledge of a fact.

(8) "Limited liability company" or "domestic limited liability company": means an unincorporated association formed under this chapter.

(9) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with Section 39 of this Act.

(10) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country.

(11) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with Section 33 of this Act.

(12) "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in Section 55 of this Act and who have not ceased to be members as provided in Section 56 of this Act.

(13) "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and shall be void and unenforceable.

(14) "Person" means an individual, a general partnership, a limited liability partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity.

(15) "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located.

(16) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(17) "Proceeding" means civil suit and criminal, administrative, and investigative action.

(18) "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies.

(19) "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys.

(20) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide.

SECTION 4. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

One (1) or more persons may form a limited liability company by delivering articles of organization to the Secretary of State for filing. It shall not be necessary that the person or persons be members of the limited liability company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The articles of organization shall set forth:

(a) A name for the limited liability company that satisfies the requirements of Section 20 of this Act;

(b) The street address of the limited liability company's initial registered office, and the name of its initial registered agent at that office;

(c) The mailing address of the initial principal office of the limited liability company;

(d) A statement that the limited liability company has at least two (2) or more members;

(e) A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members; and

(f) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve.

(2) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.

(3) The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.

(4) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the articles of organization.

(5) A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.

SECTION 6. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may amend its articles of organization to add, change, or delete a provision that is required or permitted in the articles of organization or to delete a provision not required in the articles. The articles of organization shall be amended if:

(a) There is a change in the name of the limited liability company;

(b) There is a change in the latest date upon which the limited liability company is to dissolve;

(c) There is a change in whether the management of the limited liability company is vested in managers or members; or

(d) There is a change in any other matter set forth in the articles of organization under Section 5 of this Act.

(2) Except as provided in subsection (3) of this section, or unless the articles of organization or the operating agreement provide otherwise, an amendment to the articles of organization of a limited liability company shall be approved by the members in accordance with Section 35 of this Act.

(3) Unless the articles of organization or the operating agreement provide otherwise, a manager or, if there is no manager, any member may amend the articles of organization of the limited liability company without action by the members to delete:

(a) The name and address of the initial registered agent or initial registered office if a statement of change pursuant to Section 24 of this Act is on file with the Secretary of State; or

(b) The mailing address of the initial principal office, if a statement of change pursuant to Section 8 of this Act is on file with the Secretary of State.

(4) To amend its articles of organization, a limited liability company shall file with the Secretary of State articles of amendment setting forth:

(a) The name of the limited liability company;

(b) The text of each amendment adopted;

(c) The date of each amendment's adoption; and

(d) A statement that the amendment was duly adopted by the managers or the members in accordance with the articles of organization, the operating agreement of the limited liability company, or this chapter.

(5) The articles of organization may be amended in any respect as may be desired, if the articles of organization as amended contain only provisions that may be lawfully contained in articles of organization at the time of making the amendment.

SECTION 7. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may restate its articles of organization by delivering to the Secretary of State for filing articles of restatement setting forth the name of the limited liability company and the text of the restated articles of

organization together with a certificate stating whether the restatement contains an amendment to the articles of organization requiring member approval and, if it does, setting forth the information required by subsection (4) of Section 6 of this Act.

(2) Restated articles of organization shall supersede the original articles of organization and all amendments to them when the restated articles of organization become effective pursuant to Section 12 of this Act.

(3) The Secretary of State may certify restated articles of organization as the articles of organization currently in effect, without including the certificate information required by subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company that changes the mailing address of its principal office shall deliver to the Secretary of State for filing, on a form supplied by the Secretary of State, a statement of change that sets forth:

(1) The name of the limited liability company;

(2) The mailing address of its principal office prior to the change; and

(3) The new mailing address of its principal office.

SECTION 9. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A document shall satisfy the requirements of this section, and of any other section of this chapter that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(2) This chapter shall require or permit filing the document in the Office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may also contain other information.

(4) The document shall be typewritten or printed. The typewritten or printed portion shall be in black. Manually signed photocopies, or other reproduced copies, of typewritten or printed documents may be filed.

(5) The document shall be in the English language. A limited liability company name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any document that may be filed by a foreign limited liability company which is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably authenticated English translation.

(6) Unless otherwise provided in any other section of this chapter, any document required by this chapter to be filed with the Secretary of State shall be executed:

  (a) If management of the limited liability company is vested in one (1) or more managers, by any one (1) of the managers;

  (b) If management of the limited liability company is reserved to the members, by any one (1) of the members;

  (c) If the limited liability company has not been formed, by the persons forming a limited liability company; or

  (d) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The persons executing the document shall sign it and state beneath or opposite their signatures the names of the persons and the capacity in which each signs.

(8) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the execution of the document shall not be required to be provided to or filed with the Secretary of State.

(9) If the Secretary of State has prescribed a mandatory form for a document, the document shall be in or on the prescribed form.

(10) The document shall be delivered to the Secretary of State for filing and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, and any other fee or penalty required by this chapter or other law to be collected by the Office of Secretary of State.

(11) One (1) of the exact or conformed copies shall be filed with and recorded by the county clerk of the county in which the registered office of the limited liability company is situated.

SECTION 10. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State shall prescribe and furnish on request forms for:

  (a) A certificate of existence or authorization;

  (b) An application for a certificate of authority;

  (c) An application for a certificate of withdrawal;

  (d) A statement of change of registered office or registered agent;

  (e) A statement of change of principal office address;

  (f) The annual report; and

(g) Amended application for certificate of authority.

(2) The Secretary of State shall have the discretion to make mandatory the use of the forms referred to in subsection (1) of this section.

(3) The Secretary of State shall prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter, but their use shall not be mandatory.

SECTION 11. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a) Articles of organization	*$ 40.00*
(b) Application for certificate of authority as a foreign limited liability company	*$ 90.00*
(c) Amendment of article of organization	*$ 40.00*
(d) Restatement of articles of organization	*$ 40.00*
(e) Amendment and restatement of articles of organization	*$ 80.00*
(f) Articles of dissolution with respect to a domestic limited liability company	*$ 40.00*
(g) Limited liability company's statement of change of registered agent or change of the address of the registered office, or both	*$ 10.00*
(h) Registered agent's statement of change of registered office for each affected limited liability company	*$ 10.00*
not to exceed a total of	*$ 1,000.00*
(i) Limited liability company's statement of change of the mailing address of the principal office	*$ 10.00*
(j) Application to reserve a name for use by a domestic or foreign limited liability company	*$ 15.00*
(k) Notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company	*$ 15.00*
(l) Application for use of indistinguishable name	*$ 20.00*
(m) Application for registered name	*$ 36.00*
(n) Application for renewal of registered name	*$ 36.00*
(o) Articles of merger	*$ 50.00*
(p) Application for amended certificate of authority	*$ 40.00*
(q) Application for certificate of withdrawal	*$ 40.00*
(r) Articles of correction	*$ 20.00*
(s) Certificate of existence or authorization	*$ 10.00*
(t) Reinstatement penalty following administrative dissolution	*$ 100.00*
(u) Annual report	*$ 15.00*
(v) Any other document required or permitted to be filed by this chapter	*$ 15.00*

(2) The Secretary of State shall collect a fee of ten dollars ($10) each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if the party prevails in the proceeding.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(a) Fifty cents ($0.50) a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and

statements pertaining to limited liability companies.

SECTION 12. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section and subsection (3) of Section 13 of this Act, a document shall be effective at the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date; and if it does so and is filed pursuant to subsection (1) of this section, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

(3) A document filed in accordance with this section shall be effective regardless of a failure to file the document with the county clerk pursuant to subsection (11) of Section 9 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A domestic or foreign limited liability company may correct a document filed by the Secretary of State in accordance with subsection (2) of this section if the document:

(a) Contains an incorrect statement; or

(b) Was defectively executed, attested, sealed, verified, or acknowledged.

(2) A document shall be corrected:

(a) By preparing articles of correction that:

1. Describe the document, including its filing date, or have attached a copy of the document to the articles of correction;

2. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

3. Correct the incorrect statement or defective execution; and

(b) By delivering the articles of correction to the Secretary of State for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

SECTION 14. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If a document delivered to the Secretary of State for filing satisfies the requirements of Section 9 of this Act, the Secretary of State shall file it.

(2) The Secretary of State shall file a document by stamping or otherwise endorsing "Filed," together with the Secretary of State's name and official title and the date and time of receipt, on both the original and the document copies and on the receipt for the filing fee. After filing a document, except as provided in Sections 25 and 84 of this Act , the Secretary of State shall deliver the document copies, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign limited liability company or its representative.

(3) If the Secretary of State refuses to file a document, the Secretary of State shall return it to the domestic or foreign limited liability company or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(4) The Secretary of State's duty to file documents under this section shall be ministerial. The filing or refusal to file a document by the Secretary of State shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 15. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If the Secretary of State refuses to file a document delivered for filing, the domestic or foreign limited liability company may appeal the refusal to the Franklin Circuit Court. The appeal shall be commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

(2) The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as are other civil proceedings.

SECTION 16. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A certificate attached to a copy of the document filed by the Secretary of State, bearing his signature, which may be in facsimile, and the seal of this Commonwealth, shall be conclusive evidence that the original document is on file with the Secretary of State.

SECTION 17. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Anyone may apply to the Secretary of State to furnish a certificate of existence for a domestic limited liability company or a certificate of authorization for a foreign limited liability company.

(2) A certificate of existence or a certificate of authorization shall set forth:

- ***(a) The domestic limited liability company's name or the foreign limited liability company's name used in this Commonwealth;***
- ***(b) That the domestic limited liability company is duly organized under the law of this Commonwealth, and the date of its organization, or that the foreign limited liability company is authorized to transact business in this Commonwealth;***
- ***(c) That all fees and penalties owed to the Secretary of State have been paid, if:***
  - ***1. Payment is reflected in the records of the Secretary of State; and***
  - ***2. Nonpayment affects the existence or authorization of the domestic or foreign limited liability company;***
- ***(d) That articles of dissolution have not been filed;***
- ***(e) That most recent annual report required by Section 38 of this Act has been delivered to the Secretary of State; and***
- ***(f) Other facts of record in the office of the Secretary of State that may be requested by the applicant.***

(3) Subject to any qualifications stated in the certificate itself, the certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or authorized to transact business in this Commonwealth.

SECTION 18. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to sign a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(2) Any person who violates the provisions of this section shall be guilty of a Class B misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

SECTION 19. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

All persons purporting to act as or on behalf of a limited liability company, knowing there has been no organization under this chapter, shall be jointly and severally liable for all liabilities created while so acting.

SECTION 20. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The name of each limited liability company as set forth in its articles of organization shall contain the words "limited liability company" or "limited company" or the abbreviations "LLC" or "LC". The name of each limited liability company which is a professional limited liability company shall contain the words "professional limited liability company" or "professional limited company" or the abbreviations "PLLC" or "PLC". The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

(2) Except as authorized by subsections (3) and (4) of this section, the name of a limited liability company shall be distinguishable from any name on record with the Secretary of State.

(3) A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:

- ***(a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or***
- ***(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.***

(4) A limited liability company may use the name, including the fictitious name, with any modification required by this section or Section 82 of this Act of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the limited liability company:

- ***(a) Has merged with the other business entity;***

(b) Has been formed by reorganization of the other business entity; or

(c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.

(5) This chapter shall not control the use of fictitious names.

(6) The filing of articles of organization under the particular name of the limited liability company shall not automatically prevent the use of that name or protect that name from use by other persons.

SECTION 21. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A person may apply to the Secretary of State to reserve the exclusive use of a limited liability company name, including the fictitious name, for a foreign limited liability company whose limited liability company name is not available for use in this Commonwealth. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for one (1) nonrenewable period of one hundred twenty (120) days.

(2) The holder of a reserved limited liability company name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

SECTION 22. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company may register its name, or its name with any addition required by Section 82(1)(a) of this Act, if the name is distinguishable upon the records of the Secretary of State as required under Section 20 of this Act.

(2) A foreign limited liability company shall register its name, or its name with any addition required by Section 82(1)(a) of this Act, by delivering to the Secretary of State for filing an application setting forth:

(a) Its name, or its name with any addition required by Section 82(1)(a) of this Act;

(b) The state or country and date of its organization;

(c) A brief description of the nature of the business in which it is engaged; and

(d) A statement that the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign limited liability company whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application between October 1 and December 31 of the preceding year. The renewal application shall comply with the requirements of subsection (2) of this section and when filed shall renew the registration for the following calendar year.

(5) A foreign limited liability company whose registration is effective may thereafter qualify as a foreign limited liability company under the registered name or consent in writing to the use of that name by a limited liability company thereafter organized under this chapter or by another foreign limited liability company thereafter authorized to transact business in this Commonwealth. The registration shall terminate when the domestic limited liability company is organized or the foreign limited liability company qualifies or consents to the qualification of another foreign limited liability company under the registered name.

SECTION 23. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic limited liability company and each foreign limited liability company authorized to transact business in the Commonwealth pursuant to Sections 76 to 90 of this Act shall continuously maintain in this Commonwealth:

(a) A registered office that may be the same as any of its places of business; and

(b) A registered agent who shall be either:

1. An individual who is a resident of this Commonwealth and whose business office is identical with the registered office;

2. A domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office; or

3. A foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

SECTION 24. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company, or a foreign limited liability company authorized to transact business in the

Commonwealth pursuant to Sections 76 to 90 of this Act, may change its registered office or registered agent, or both, upon filing in the office of the Secretary of State a statement of change on a form supplied by the Secretary of State that sets forth:

(a) The name of the limited liability company or foreign limited liability company;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of the new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the registered agent's business office to another place within this Commonwealth, the registered agent shall change the street address of the registered office of any limited liability company or foreign limited liability company of which the registered agent is a registered agent by notifying the limited liability company in writing of the change, and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the limited liability company has been notified of the change.

(3) The change of address of the registered office or registered agent shall be effective on delivery of the statement to the Secretary of State. The appointment of a new registered agent shall be effective on delivery of the statement to the Secretary of State and on receipt by the Secretary of State of evidence that the new registered agent has accepted appointment pursuant to subsection (2) of Section 23 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A registered agent may resign as registered agent by signing and delivering to the Secretary of State for filing the executed original and two (2) exact or conformed copies of a statement of resignation. The statement may also include a statement that the registered office is also discontinued.

(2) After filing the statement, the Secretary of State shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the limited liability company at its principal office.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

SECTION 26. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A domestic or foreign limited liability company's registered agent shall be the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.

(2) If a domestic or foreign limited liability company has no registered agent in this Commonwealth, or the registered agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at its principal office. Service shall be perfected under this subsection at the earliest of:

(a) The date the limited liability company receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the limited liability company; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(3) This section shall not prescribe the only means, or necessarily the required means, of serving a domestic or foreign limited liability company.

SECTION 27. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, every member shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge or has received notification of the fact that the member has no such authority.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) No member, solely by reason of being a member, shall be an agent of the limited liability company; and

(b) Every manager shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is the manager shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge or has received notification of the fact that the manger has no such authority.

(3) An act of a manager or a member which is apparently not for the carrying on in the usual way of the business or affairs of the limited liability company shall not bind the limited liability company unless, at the time of the transaction or at any other time, the act is authorized in accordance with the operating agreement.

(4) An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.

SECTION 28. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, an admission, statement, or representation made by any member concerning the business or affairs of a limited liability company within the scope of the member's authority as provided for by this chapter shall be evidence against the limited liability company.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) An admission, statement, or representation made by a manager concerning the business or affairs of a limited liability company within the scope of the manager's authority as provided for by this chapter shall be evidence against the limited liability company; and

(b) The admission, statement, or representation of any member, acting solely in the capacity of a member, shall not constitute evidence against the limited liability company.

SECTION 29. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, notice to any member of any matter relating to the business or affairs of the limited liability company, and the knowledge of the member acting in the particular matter, acquired while a member or known at the time of becoming a member, and the knowledge of any other member who reasonably could and should have communicated the knowledge to the acting member, shall operate as notice to or knowledge of the limited liability company, except in the case of a fraud on the limited liability company committed by or with the consent of that member.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) Notice to any manager of any matter relating to the business or affairs of the limited liability company, and the knowledge of the manager acting in the particular matter, acquired while a manager or known at the time of becoming a manager, and the knowledge of any other manager who reasonably could and should have communicated the knowledge to the acting manager, shall operate as notice to or knowledge of the limited liability company, except in the case of a fraud on the limited liability company committed by or with the consent of that manager; and

(b) Notice to or knowledge of any member of the limited liability company while the member is acting solely in the capacity of a member shall not constitute notice to or knowledge of the limited liability company.

SECTION 30. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Except as otherwise specifically set forth in this chapter, no member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall be personally liable by reason of being a member, manager, employee, or agent of the limited liability company, under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise. The status of a person as a member, manager, employee or agent of a limited liability company, including a professional limited liability company, shall not subject the person to personal liability for the acts or omissions, including any negligence, wrongful act, or actionable misconduct, of any other member, manager, agent, or employee of the limited liability company.

SECTION 31. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A member of a limited liability company shall not be a proper party to a proceeding by or against a limited liability company, solely by reason of being a member of the limited liability company, except if the object of the proceeding is to enforce a member's right against or liability to the limited liability company or as otherwise provided in an operating agreement.

SECTION 32. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may conduct its business, carry on its operations, and exercise the power granted by this

chapter in any state, or in any foreign country.

(2) The personal liability of members, managers, employees, and agents of a limited liability company to any person or in any action or proceeding for the debts, obligations, or liabilities of a limited liability company or for the acts of omissions of other members, managers, employees, or agents of a limited company shall be governed solely and exclusively by this chapter and the laws of this Commonwealth. When a conflict arises between the law of this state and the laws of any other state with regard to the liability of the members of the limited liability company for the debts, obligations, and liabilities of the limited liability company, or of the acts or omissions of other members, managers, employees, or agents of the limited liability company, this Commonwealth's law shall be deemed to govern in determining the liability.

SECTION 33. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of more than one-half (1/2) by number of the members;

(b) Shall not be required to be members of the limited liability company or natural persons; and

(c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.

SECTION 34. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in an operating agreement:

(1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.

(2) Each member and manager shall account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers or members, or other persons participating in the management of the business or affairs of the limited liability company from:

(a) Any transaction connected with the conduct or winding up of the limited liability company; or

(b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his status as manager or member.

(3) One who is a member of the limited liability company in which management is vested in managers under subsection (2) of Section 33 of this Act and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his capacity as a member.

SECTION 35. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in the articles of organization, an operating agreement, or this chapter, and subject to subsection (2) of this section, the affirmative vote, approval, or consent of more than one-half (1/2) by number of the members, if management of the limited liability company is vested in the members, or of the managers, if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.

(2) Unless otherwise provided in writing in the operating agreement, the affirmative vote, approval, or consent of all members shall be required to:

(a) Amend a written operating agreement;

(b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or

(c) Amend the articles of organization to change the management of the limited liability company from members to managers or from managers to members.

SECTION 36. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

The operating agreement may:

(1) Eliminate or limit the personal liability of a member or manager for monetary damages for breach of any duty provided for in Section 34 of this Act; and

(2) Provide for indemnification of a member or manager for judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which a person is a party because the person is or was a member or manager.

SECTION 37. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company shall keep at its principal office or other location as set forth in a written operating agreement, the following:

(a) A current list, and all past lists, setting forth the full name and last known mailing address of each member and manager, if any;

(b) A copy of the articles of organization and all amendments thereto, together with executed copies of any power of attorney pursuant to which any articles of amendment have been executed;

(c) Copies of the limited liability company's federal, state, and local income tax returns and financial statements, if any, for the three (3) most recent years or, if those returns and statements were not prepared, copies of the information and statements provided to, or which should have been provided to, the members to enable them to prepare their federal, state, and local tax returns for those years;

(d) Copies of any effective written operating agreements and all amendments thereto, and copies of any written operating agreements no longer in effect; and

(e) Unless contained in writing in an operating agreement:

1. A writing setting forth the amount of cash, if any, and a statement of the agreed value of other property or services, if any, contributed by each member and the times at which or events upon the happening of which any additional contributions are to be made;

2. A writing stating events, if any, upon the happening of which the limited liability company is to be dissolved and its affairs wound up; and

3. Other writings, if any, prepared pursuant to a requirement, if any, in an operating agreement.

(2) Upon reasonable written request, a member may, at the member's own expense, inspect and copy during ordinary business hours any limited liability company record, where the record is located or at a reasonable location.

(3) Members, if the management of the limited liability company is vested in the members, or managers, if management of the limited liability company is vested in managers, shall render, to the extent the circumstances render it just and reasonable, true and full information of all matters affecting the members to any member, and the member's agent, and to the legal representative of any deceased member or of any member under legal disability.

(4) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section shall not be grounds for imposing liability on any member or manager for the debts and obligations of the limited liability company.

SECTION 38. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic limited liability company, and each foreign limited liability company authorized to transact business in this Commonwealth, shall deliver to the Secretary of State for filing an annual report that sets forth:

(a) The name of the limited liability company and the state or country under whose law it is organized;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its managers, if management is vested in managers, or one (1) or more designated members, if management is vested in members.

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the limited liability company.

(3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic limited liability company was organized or a foreign limited liability company was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction.

SECTION 39. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company interest may be issued in exchange for consideration consisting of cash, property, services *rendered, or a promissory note or other obligation to contribute cash or property or to perform services.*

SECTION 40. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A promise by a member to contribute to the limited liability company shall not be enforceable unless set forth in a writing signed by the member.

(2) Unless otherwise provided in an operating agreement, a member shall be obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or other reason.

(3) If a member does not make the required contribution of property or services, the member shall be obligated, at the option of the limited liability company, to contribute cash equal to that portion of value of the stated contribution that has not been made.

(4) Unless otherwise provided in an operating agreement, the obligation of a member to make a contribution may be compromised only with the unanimous consent of the members.

(5) Notwithstanding any compromise approved pursuant to subsection (4) of this section, a creditor of a limited liability company who extends credit or otherwise acts in reliance on the obligation after the member executes a writing which reflects the obligation and before the compromise may enforce the original obligation.

SECTION 41. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Profits and losses of a limited liability company shall be allocated among the members and among classes of members in a manner provided in the operating agreement. If the operating agreement does not otherwise provide, profits and losses shall be allocated on a per capita basis.

SECTION 42. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Sections 43 and 62 of this Act, distributions of cash or other assets of a limited liability company shall be allocated among the members and among classes of members in the manner provided in writing in an operating agreement. If an operating agreement does not so provide in writing, each member shall share equally in any distribution. A member shall be entitled to receive distributions described in this section from a limited liability company to the extent and at the times or upon the happenings of the events specified in an operating agreement or at the times determined by the members or managers pursuant to Section 35 of this Act.

SECTION 43. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Upon the occurrence of an event of disassociation under Section 56 of this Act which does not cause dissolution, other than an event of disassociation described in subsection (1)(c)2. of Section 56 of this Act, a disassociating member shall be entitled to receive any distribution which the member was entitled to receive prior to the event of disassociation. Within a reasonable time after disassociation, unless otherwise provided in the operating agreement, the disassociated member shall be entitled to receive the fair value of the member's limited liability company interest as of the date of disassociation based on the member's right to share in distributions from the limited liability company.

SECTION 44. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in an operating agreement:

(1) A member, regardless of the nature of the member's contribution, shall not have a right to demand and receive any distribution from the limited liability company in any form other than cash; and

(2) A member shall not be compelled to accept from a limited liability company a distribution of any asset in kind to the extent that the percentage of the asset distributed to the member exceeds the percentage that the member would have shared in a cash distribution equal to the value of the property at the time of distribution.

SECTION 45. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) No distribution shall be made if, after giving effect to the distribution:

  (a) The limited liability company would not be able to pay its debts as they become due in the usual course of business; or

  (b) The limited liability company's assets would be less than the sum of its liabilities plus, unless otherwise provided in an operating agreement, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution which are superior to the rights of the member receiving the distribution.

(2) The limited liability company may base a determination that a distribution is not prohibited under subsection (1) of this section either on:

  (a) Financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or

  (b) A fair valuation or other method that is reasonable under the circumstances.

(3) Except as provided in subsection (5) of this section, the effect of a distribution under subsection (1) of this section shall be measured as of:

(a) The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or

(b) The date payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

(4) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section shall be at parity with the limited liability company's indebtedness to its general unsecured creditors, except to the extent subordinated by agreement.

(5) If terms of the indebtedness provide that payment of principal and interest is to be made only if, and to the extent that, payment of a distribution to members could then be made under this section, indebtedness of a limited liability company, including indebtedness issued as a distribution, shall not be a liability for purposes of determinations made under subsection (1) of this section.

(6) If the indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which shall be measured on the date the payment is actually made.

SECTION 46. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A member or manager who votes for or assents to a distribution in violation of an operating agreement or Section 45 of this Act shall be personally liable to the limited liability company for the amount of the distribution that exceeds the amount that could have been distributed without violating Section 45 of this Act or an operating agreement if it is established that the member or manager did not comply with Section 34 of this Act.

(2) Each member or manager held liable under subsection (1) of this section for an unlawful distribution shall be entitled to contribution:

(a) From each other member or manager who could be held liable under subsection (1) of this section for the unlawful distribution; and

(b) From each member for the amount the member received in violation of Section 45 of this Act or an operating agreement.

(3) A proceeding under this section shall be barred unless it is commenced within two (2) years after the date on which the effect of the distribution is measured under subsection (3) of Section 45 of this Act.

SECTION 47. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

At the time a member becomes entitled to receive a distribution, the member shall have the status of, and shall be entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

SECTION 48. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Property transferred to or otherwise acquired by a limited liability company shall be the property of the limited liability company and not of the members individually.

(2) Property may be acquired, held, and conveyed in the name of the limited liability company. Any estate in real property may be acquired in the name of the limited liability company, and title to any interest so acquired shall vest in the limited liability company rather than in the members individually.

SECTION 49. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (5) of this section, property of the limited liability company held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member in the name of the limited liability company.

(2) Property of the limited liability company that is held in the name of one (1) or more members or managers with an indication in the instrument transferring the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, if the name of the limited liability company is not indicated, may be transferred by an instrument of transfer executed by the persons in whose name title is held.

(3) Property transferred under subsection (1) or (2) of this section may be recovered by a limited liability company if the limited liability company proves that the execution of the instrument of transfer did not bind the limited liability company under Section 27 of this Act, unless the property has been transferred by the initial transferee or person claiming through the initial transferee to a subsequent transferee who gives value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the limited liability company.

(4) Property of the limited liability company held in the name of one (1) or more persons other than the limited liability company, without an indication in the instrument transferring title to the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, may be transferred free of any claims of the limited liability company or the members by the persons in whose name title is

held to a transferee who gives value without having notice that it is property of a limited liability company.

(5) If the articles of organization provide that management of the limited liability company is vested in a manger or managers:

- *(a) Title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager in the name of the limited liability company; and*
- *(b) A member, solely by reason of being a member, shall not have authority to transfer property of the limited liability company.*

SECTION 50. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company interest shall be personal property.

SECTION 51. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in writing in an operating agreement:

- *(a) A limited liability company interest shall be assignable in whole or in part;*
- *(b) An assignment shall entitle the assignee to receive, to the extent assigned, only the distributions to which the assignor would be entitled;*
- *(c) An assignment of a limited liability company interest shall not dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or exercise any rights of a member other than the right to receive distributions pursuant to subsection (1)(b) of this section;*
- *(d) Until the assignee of a limited liability company interest becomes a member pursuant to subsection (1) of Section 53 of this Act, the assignor shall continue to be a member and to have the power to exercise any rights of a member, subject to the members' right to remove the assignor pursuant to subsection (1)(c)2. of Section 56 of this Act;*
- *(e) Until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment; and*
- *(f) The assignor of a limited liability company interest shall not be released from liability as a member solely as result of the assignment.*

(2) An operating agreement may provide that a member's limited liability company interest may be evidenced by a certificate of limited liability company interest issued by the limited liability company and may also provide for the assignment or transfer of any interest represented by the certificate.

(3) Unless otherwise provided in an operating agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the limited liability company interest of a member shall not constitute an assignment, and shall not cause the member to cease to be a member or cease to have the power to exercise any rights or powers of a member.

SECTION 52. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the member's limited liability company interest with payment of the unsatisfied amount of judgment with interest thereon. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the member's limited liability company interest. This chapter shall not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest.

SECTION 53. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, an assignee of a limited liability company interest shall become a member only if the other members unanimously consent. The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of specification, consent shall be evidenced by one (1) or more written instruments, dated and signed by all members.

(2) An assignee who becomes a member shall have, to the extent assigned, the rights and powers, and shall be subject to the restrictions and liabilities, of a member under the articles of organization, any operating agreement, and this chapter. An assignee who becomes a member also shall be liable for any obligations of his assignor to make contributions under Section 40 of this Act. However, the assignee shall not be obligated for liabilities of which the assignee had no knowledge at the time he became a member and which could not be ascertained from the articles of organization or any written operating agreement.

(3) Unless otherwise provided in a written operating agreement, the assignor shall not be released from his liability to the limited liability company under Section 40 of this Act, whether or not an assignee of a limited liability company

interest becomes a member.

(4) Unless otherwise provided in a written operating agreement, a member who assigns his entire limited liability company interest shall cease to be a member or to have the power to exercise any rights of the member when the assignee becomes a member with respect to the entire assigned interest.

SECTION 54. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage the member's person or property, the member's executor, administrator, guardian, conservator, or other legal representative shall have all of the rights of an assignee with respect to the member's interest.

SECTION 55. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsection (2) of this section, a person may become a member in a limited liability company:

(a) In the case of the person acquiring a limited liability company interest directly from a limited liability company, upon compliance with an operating agreement or, if an operating agreement does not so provide in writing, upon the written consent of all members; and

(b) In the case of an assignee of the limited liability company interest, as provided in Sections 51 and 53 of this Act.

(2) The effective time of admission of a member to a limited liability company shall be the later of:

(a) The date the limited liability company is formed; or

(b) The time provided in the operating agreement or, if no time is provided, when the person's admission is reflected in the records of the limited liability company.

SECTION 56. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A person shall cease to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:

(a) The member withdraws by voluntary act from the limited liability company as provided in subsection (3) of this section;

(b) The member ceases to be a member of the limited liability company as provided in Section 53 of this Act;

(c) The member is removed as a member:

1. In accordance with a written operating agreement; or

2. Unless otherwise provided in a written operating agreement, when the member assigns all of the member's interest in the limited liability company, by the written consent of all members who have not assigned their interest;

(d) Unless otherwise provided in writing a written operating agreement or by written consent of all members, at the time the member:

1. Makes an assignment for the benefit of creditors;

2. Files a voluntary petition in bankruptcy;

3. Is adjudicated bankrupt or insolvent;

4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or

6. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property;

(e) Unless otherwise provided in a written operating agreement or by written consent of all members at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member, or of all or any substantial part of the member's properties, the appointment is not vacated or stayed or within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;

(f) Unless otherwise provided in a written operating agreement or by written consent of all members at the time, in the case of a member that is an individual:

1. The member's death; or

2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to *manage his or her person or estate;*

(g) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;

(h) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;

(i) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the revocation of its articles of incorporation and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its articles of incorporation; or

(j) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(2) The members may provide in a written operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.

(3) Unless a written operating agreement provides in writing that a member has no power to withdraw by voluntary act from a limited liability company, the member may do so at any time by giving thirty (30) days written notice to the other members, or other notice as provided in a written operating agreement. If the member has the power to withdraw but the withdrawal is a breach of an operating agreement, or the withdrawal occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover from the withdrawing member damages for breach of the operating agreement or as a result of the wrongful conduct, including the reasonable cost of obtaining replacement of the services the withdrawing member was obligated to perform and may offset the damages against the amount otherwise distributable to the withdrawing member, in addition to pursuing any remedies provided in an operating agreement or otherwise available under applicable law. Unless otherwise provided in an operating agreement, in the case of a limited liability company for a definite term or particular undertaking, a withdrawal by a member before the expiration of that term shall constitute a breach of the operating agreement.

SECTION 57. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company shall be dissolved and its affairs wound up upon the happening of the first to occur of the following:

(1) At the time or upon the occurrence of events specified in the articles of organization or a written operating agreement;

(2) The written consent of all members;

(3) Any event of disassociation of a member, unless:

(a) The business of the limited liability company is continued by the consent of all the remaining members on or before the ninetieth day following the occurrence of the event; or

(b) Otherwise provided in a written operating agreement;

(4) Entry of a decree of judicial dissolution under Section 58 of this Act; or

(5) Filing of a certificate of dissolution by the Secretary of State under Section 59 of this Act.

SECTION 58. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court, for the county in which the principal office of the limited liability company is located, or, if none, in the county of the registered office, may dissolve a limited liability company in a proceeding by a member if it is established that it is not reasonably practicable to carry on the business of the limited liability company in conformity with the operating agreement.

(2) Any decree dissolving the limited liability company pursuant to subsection (1) of this section shall specify the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.

(3) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the limited liability company's business and affairs in accordance with Section 60 of this Act and the notification of claimants in accordance with Sections 64 and 65 of this Act.

SECTION 59. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days

after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. State that the limited liability company's name satisfies the requirements under Section 20 of this Act;

4. Contain a certificate from the Kentucky Revenue Cabinet stating that all taxes owed by the limited liability company have been paid; and

5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in subsection (1) of Section 11 of this Act.

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and

2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

SECTION 60. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in a written operating agreement:

(1) The business or affairs of the limited liability company may be wound up:

(a) By the members or managers who have authority pursuant to Section 33 of this Act to manage the limited liability company prior to dissolution; or

(b) If one (1) or more of the members or managers have engaged in wrongful conduct, or upon other cause shown, by the Circuit Court for the county in which the principal office of the limited liability company is located or in which the registered office of the limited liability company is located, on application of any

member, any member's legal representative, or assignee.

(2) A dissolved limited liability company shall continue its existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its members;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its members according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(3) Dissolution of a limited liability company shall not:

(a) Transfer title to the limited liability company's property;

(b) Prevent transfer of a limited liability company interest, although the authorization to dissolve may provide for the limited liability company restricting the transfer of the limited liability company's interest;

(c) Subject its members or managers to standards of conduct different from those prescribed herein;

(d) Change quorum or voting requirements for its members or managers; change provisions for selection, resignation, or removal of its members or managers; or change provisions for amending its operating agreement;

(e) Prevent commencement of a proceeding by or against the limited liability company in its name;

(f) Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution;

(g) Terminate the authority of the registered agent of the limited liability company; or

(h) Alter the obligations and responsibilities of the limited liability company as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns.

SECTION 61. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsections (3) and (4) of this section, after dissolution of the limited liability company, each member or manager having authority to wind up the limited liability company's business and affairs may bind the limited liability company:

(a) By any act appropriate for winding up the limited liability company's affairs or completing transactions unfinished at dissolution; and

(b) By any other act that would have bound the limited liability company if it had not been dissolved, if the other party to the transaction did not have notice of the dissolution.

(2) The filing of articles of dissolution pursuant to Section 63 of this Act, the entry of a decree of dissolution pursuant to Section 58 of this Act, or the filing of a certificate of dissolution pursuant to Section 59 of this Act, shall be presumed to constitute notice of dissolution for purposes of subsection (1)(b) of this section.

(3) An act of a member or manager which is not binding on the limited liability company pursuant to subsection (1) of this section shall be binding if it is otherwise authorized by the limited liability company.

(4) An act of a member or manager which would be binding under subsection (1) of this section, or would be otherwise authorized but which is in contravention of a restriction on authority, shall not bind the limited liability company to persons having knowledge of the restriction.

SECTION 62. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(1) Payment, or adequate provisions for payment, shall be made to creditors, including, to the extent permitted by law, members who are creditors in satisfaction of liabilities of the limited liability company;

(2) Unless otherwise provided in a written operating agreement, to members or former members in satisfaction of liabilities for distributions under Sections 42 and 43 of this Act; and

(3) Unless otherwise provided in a written operating agreement, to members and former members first for the return of their contributions and second in proportion to the members' respective rights to share in distributions from the limited liability company prior to dissolution.

SECTION 63. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

After the dissolution of the limited liability company pursuant to subsection (1), (2) or (3) of Section 57 of this Act, the limited liability company shall file articles of dissolution with the Secretary of State which set forth:

(1) The name of the limited liability company;

(2) A statement of the subsection of Section 57 of this Act pursuant to which the limited liability company has dissolved;

(3) The effective date, which shall be a date certain, of the dissolution; and

(4) Any other information the members or managers filing the articles of dissolution shall deem proper.

SECTION 64. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Upon dissolution pursuant to Section 57 of this Act, a limited liability company may dispose of the known claims against it by filing, if required, articles of dissolution pursuant to Section 63 of this Act and by following the procedures described in this section.

(2) The limited liability company shall notify its known claimants in writing of the dissolution at any time after the effective date of dissolution. The written notice shall:

- *(a) Describe information that must be included in a claim;*
- *(b) Provide a mailing address where a claim may be sent;*
- *(c) State the deadline, which may not be fewer than one hundred twenty (120) days after the later of the date of the written notice, if required, or the filing of articles of dissolution pursuant to Section 63 of this Act, by which the limited liability company must receive the claim; and*
- *(d) State that the claim will be barred if not received by the deadline.*

(3) A claim against the limited liability company shall be barred:

- *(a) If a claimant who is given written notice under subsection (2) of this Section does not deliver the claim to the limited liability company by the deadline;*
- *(b) If a claimant whose claim was rejected by the limited liability company does not commence a proceeding to enforce the claim within ninety (90) days after the date of the rejection notice.*

(4) For purposes of this section, "claim" shall not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SECTION 65. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A dissolved limited liability company may publish notice of its dissolution pursuant to this section.

(2) The notice shall:

- *(a) Be published once in a newspaper of general circulation in the county where the limited liability company's principal office, or, if none in this state, its registered office, is or was last located;*
- *(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and*
- *(c) State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within two (2) years, or five (5) years for a professional limited liability company, after the publication of the notice.*

(3) If the dissolved limited liability company publishes a newspaper notice in accordance with subsection (2) of this section and, if required, files articles of dissolution pursuant to Section 63 of this Act, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the limited liability company within two (2) years, or five (5) years for a professional limited liability company, after the later of publication date of the newspaper notice or the filing of the articles of dissolution pursuant to Section 63 of this Act, the filing of a certificate of dissolution by the Secretary of State pursuant to subsection (2)(b) of Section 59 of this Act, or the filing of a decree of judicial dissolution by the Secretary of State pursuant to subsection (2) of Section 58 of this Act:

- *(a) A claimant who did not receive written notice under Section 64 of this Act;*
- *(b) A claimant whose claim was timely sent to the limited liability company but not acted on;*
- *(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.*

(4) A claim may be enforced under this section:

- *(a) Against the limited liability company, to the extent of its undistributed assets; or*
- *(b) If the assets have been distributed in liquidation, against a member of the limited liability company to the extent of his pro rata share of the claim or the assets of the limited liability company distributed to him in liquidation, whichever is less, but a member's total liability for all claims under this section shall not exceed the total amount of assets, less liabilities assumed or taken subject to, distributed to him.*

SECTION 66. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Suit may be brought by or against the limited liability company in its own name.

SECTION 67. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in a written operating agreement, a suit on behalf of the limited liability company may be brought in the name of the limited liability company only by:

(1) One (1) or more members of a limited liability company, whether or not the operating agreement vests management of the limited liability company in one (1) or more managers, who are authorized to sue by the vote of more than one half (1/2) of the number of members eligible to vote thereon, unless the vote of all members shall be required pursuant to subsection (1) of Section 35 of this Act. In determining the vote required under Section 35 of this Act, the vote of any member who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded; or

(2) One (1) or more managers of the limited liability company, if an operating agreement vests management of the limited liability company in one (1) or more managers, who are authorized to do so by the vote required pursuant to Section 35 of this Act of the managers eligible to vote thereon. In determining the required vote, the vote of any manager who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded.

SECTION 68. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A determination that a member or manager does not have authority to sue on behalf of the limited liability company shall not be asserted as a defense to an action brought by the limited liability company or as a basis for the limited liability company to bring a subsequent suit on the same cause of action.

SECTION 69. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in writing in a written operating agreement, and subject to any law applicable to business entities other than limited liability companies, one (1) or more limited liability companies may merge with or into one (1) or more other business entities with the limited liability company or other business entity being the surviving or resulting limited liability company or other business entity.

(2) Rights or securities of or interests in a business entity that is a party to the merger may be exchanged for or converted into cash, property, obligations, rights, or securities of or interests in the surviving or resulting business entity or of any other business entity.

SECTION 70. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, a limited liability company that is a party to a proposed merger shall approve the plan of merger in Section 71 of this Act by the unanimous consent of the members.

(2) Each business entity that is a party to a proposed merger shall approve the plan of merger in the manner and by the vote required by the laws applicable to the business entity.

(3) Each business entity that is a party to the merger shall have the rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity.

SECTION 71. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Each constituent business entity shall enter into a written plan of merger, which shall be approved in accordance with Section 70 of this Act.

(2) The plan of merger shall set forth:

(a) The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;

(b) The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth whether limited liability is retained by the surviving business entity;

(c) The manner and basis of converting the interests in each limited liability company and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;

(d) The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired;

(e) Other provisions relating to the proposed merger that are deemed necessary or desirable.

SECTION 72. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The business entity surviving from the merger shall deliver to the Secretary of State for filing articles of merger duly executed by each constituent business entity setting forth:

(a) The name and jurisdiction of formation or organization of each constituent business entity which is to

merge;

(b) The plan of merger;

(c) The name of the surviving business entity;

(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with Section 70 of this Act; and

(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceeding. The surviving entity shall specify the address to which a copy of the process shall be mailed to it by the Secretary of State.

(2) A merger shall take effect upon the later of the effective date of the filing of the articles of merger or the date set forth in the articles of merger.

(3) The articles of merger shall be executed by a limited liability company that is a party to the merger in the manner provided for in Section 9 of this Act, and shall be filed with the Secretary of State in the manner provided for in Section 9 of this Act.

(4) A plan of merger approved in accordance with Section 70 of this Act may effect any amendment to an operating agreement for a limited liability company if it is the surviving company in the merger. An approved plan of merger may also provide that the operating agreement of any constituent limited liability company to the merger, including a limited liability company formed for the purpose of consummating a merger, shall be the operating agreement of the limited liability company that is the surviving business entity. Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to this subsection shall be effective at the effective time or date of the merger. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to in this section by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law.

SECTION 73. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A merger shall have the following effects:

(1) The constituent business entities that are parties to the merger shall be a single entity, which shall be the entity designated in the plan of merger as the surviving business entity.

(2) Each party to the merger, except the surviving business entity, shall cease to exist.

(3) The surviving business entity shall possess all the rights, privileges, immunities, and powers of each constituent business entity and shall be subject to all the restrictions, disabilities, and duties of each of the constituent entities to the extent the rights, privileges, immunities, powers, restrictions, disabilities, and duties are applicable to the type of business entity that is the surviving business entity.

(4) All property, real, personal, and mixed, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other choices in action, and all and every other interest of, belonging to, or due to each of the constituent business entities shall be vested in the surviving business entity without further act or deed.

(5) The title to all real estate and any interest therein, vested in any constituent business entity shall not revert or be in any way impaired by reason of the merger.

(6) The surviving entity shall thenceforth be liable for all liabilities and obligations of each of the constituent business entities merged, and any claim existing or action or proceeding pending by or against any constituent business entity may be prosecuted as if the merger had not taken place, or the surviving business entity may be substituted in the action.

(7) Neither the rights of creditors nor any liens on the property of any constituent business entity shall be impaired by the merger.

(8) The interests in a limited liability company or other business entities that are to be converted or exchanged into interests, other securities, cash, obligations, or other property under the terms of the plan of merger are so converted and the former holders thereof are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.

SECTION 74. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.

(2) The terms and conditions of a conversion of a partnership or limited partnership to a limited liability company shall, in the case of a partnership, be approved by all the partners or by a number or percentage specified for conversion in the partnership agreement or, in the case of a limited partnership, by all the partners, notwithstanding any provision to the contrary in the limited partnership agreement.

(3) After the conversion is approved under subsection (2) of this section, the partnership or limited partnership shall file articles of organization with the office of the Secretary of State which satisfy the requirements of Section 5 of this Act and include:

- *(a) A statement that the partnership or limited partnership was converted to a limited liability company from a partnership or limited partnership, as the case may be;*
- *(b) Its former name;*
- *(c) In the case of a partnership, a statement of the number of votes cast by the partners entitled to vote for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement and a statement that any assumed name has been canceled; and*
- *(d) In the case of a limited partnership, the limited partnership shall cancel its certificate of limited partnership and any assumed name pursuant to this Commonwealth's limited partnership law.*

(4) The conversion shall take effect, in the case of a partnership, when the articles of organization are filed with the office of the Secretary of State or at any later date specified in the articles of organization or, in the case of a limited partnership, when the certificate of limited partnership is canceled.

(5) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a conversion shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the conversion takes effect. If the other party to a transaction with the limited liability company reasonably believes when entering the transaction that the member undertaking the transaction is a partner in a partnership or a general partner in a limited partnership, the member shall be liable for an obligation incurred by the limited liability company within ninety (90) days after the conversion takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the conversion takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a conversion shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect.

SECTION 75. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A partnership or limited partnership that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

- *(a) All property owned by the converting partnership or limited partnership shall remain vested in the converted business entity;*
- *(b) All obligations of the converting partnership or limited partnership shall continue as obligations of the converted business entity; and*
- *(c) An action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred.*

SECTION 76. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the Constitution of this Commonwealth:

- *(a) The laws of the state or other jurisdiction under which a foreign limited liability company is organized shall govern its organization and internal affairs and the liability of its members, except as provided in subsection (2) of this section; and*
- *(b) A foreign limited liability company shall not be denied registration by reason of any difference between the laws of another jurisdiction under which a foreign limited liability company is organized and the laws of this Commonwealth.*

(2) A foreign limited liability company that has obtained a certificate of authority pursuant to this chapter and its members and managers shall have no greater rights and privileges than a domestic limited liability company and its members and managers with respect to transactions and relationships with persons who are not members. The certificate of authority shall not authorize the foreign limited liability company to exercise any powers or engage in any business that a domestic limited liability company is forbidden to exercise or engage in by the laws of this Commonwealth.

SECTION 77. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company shall not transact business in this Commonwealth until it obtains a certificate of authority from the Secretary of State.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

- *(a) Maintaining, defending, or settling any action, suit, or proceeding;*
- *(b) Holding meetings of its members or managers or carrying on other activities concerning its internal affairs;*
- *(c) Maintaining bank accounts;*
- *(d) Maintaining offices or agencies for the transfer, exchange, and registration of the limited liability company's securities, or maintaining trustees or depositories with respect to those securities;*
- *(e) Selling through independent contractors;*
- *(f) Soliciting or obtaining orders, whether by mail, through employees or agents, or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;*
- *(g) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property;*
- *(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;*
- *(i) Owning, without more, real or personal property;*
- *(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; or*
- *(k) Transacting business in interstate commerce.*

(3) The list of activities in subsection (2) of this section shall not be considered exhaustive. This section shall not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.

(4) The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210.

SECTION 78. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company transacting business in this Commonwealth without a certificate of authority shall not maintain an action, suit, or proceeding in any court in this Commonwealth until it obtains a certificate of authority.

(2) The successor to a limited liability company that transacted business in this Commonwealth without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this Commonwealth until the foreign limited liability company or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign limited liability company, its successor, or assignee, until it determines whether the foreign limited liability company or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the limited liability company or its successor obtains the certificate of authority.

(4) A foreign limited liability company shall be liable for a civil penalty of two dollars ($2) for each day, but not to exceed a total of five hundred dollars ($500) for each year, it transacts business in this Commonwealth without a certificate of authority. The Attorney General may collect all penalties due under this subsection.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign limited liability company to obtain a certificate of authority shall not impair the validity of any contract or act of the foreign limited liability company or prevent it from defending any proceeding in this Commonwealth.

SECTION 79. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall set forth:

- *(a) The name of the foreign limited liability company, or if its name is unavailable for use in this Commonwealth, a company name that satisfies the requirements of Section 82 of this Act;*
- *(b) The name of the state or country under whose law it is organized;*
- *(c) Its date of organization and, if the limited liability company has a specific date of dissolution, the latest date upon which it is to dissolve;*
- *(d) The street address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company;*
- *(e) The address of its registered office in this Commonwealth and the name of its registered agent at that office;*

(f) The names and usual business addresses of its current managers, if any; and

(g) A statement that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation.

(2) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the certificate of authority.

SECTION 80. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes:

(a) Its company name;

(b) The latest date on which it is to dissolve; or

(c) The state or country of its organization.

(2) The requirements of Section 79 of this Act for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 81. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of authority shall authorize the foreign limited liability company to which it is issued to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the certificate as provided in this chapter.

(2) A foreign limited liability company with a valid certificate of authority shall have the same but no greater rights as, and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic limited liability company.

(3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs of a foreign limited liability company authorized to transact business in this Commonwealth.

SECTION 82. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If the name of a foreign limited liability company does not satisfy the requirements of Section 20 of this Act, the foreign limited liability company, to obtain or maintain a certificate of authority to transact business in this Commonwealth:

(a) May add to its name for use in this Commonwealth:

1. The words "limited liability company," "limited company," "professional limited liability company," or "professional liability company." The word "limited" may be abbreviated as "Ltd" and the word "Company" may be abbreviated as "Co."; or

2. The abbreviations "LLC," "LC," "PLLC," or "PLC"; or

(b) May use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a person authorized to execute documents pursuant to subsection (6) of Section 9 of this Act that the limited liability company has adopted the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign limited liability company shall be distinguishable from the name of any other business entity upon the records with the Secretary of State.

(3) A foreign limited liability company may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable upon his records from the name applied for. The Secretary of State shall authorize use of the name applied for if:

(a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or

(b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(4) A foreign limited liability company may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign limited liability company:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the business entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other business entity.

(5) If a foreign limited liability company authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under Section 80 of this Act.

SECTION 83. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Each foreign limited liability company authorized to transact business in this Commonwealth shall continuously maintain in this Commonwealth:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this Commonwealth and whose business office is identical with the registered office;

(b) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office;

(c) A foreign corporation or foreign not-for-profit corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office; or

(d) A domestic limited liability company or a foreign limited liability company authorized to transact business in this Commonwealth whose business address is identical with the registered office.

(3) The registered agent shall execute and deliver to the Secretary of State a document accepting the agency appointment, and the appointment of the agent shall not be effective until delivered to the Secretary of State.

SECTION 84. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company authorized to transact business in this Commonwealth may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of its business office, the agent shall change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the Secretary of State for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the limited liability company has been notified of the change.

SECTION 85. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign limited liability company may resign its agency appointment by signing and delivering to the Secretary of State for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After filing the statement, the Secretary of State shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The Secretary of State shall mail the other copy to the foreign limited liability company at its principal office address shown in its most recent annual report.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed. A foreign limited liability company that fails to maintain a registered agent in this Commonwealth shall be subject to revocation of its certificate of authority under Section 88 of this Act.

SECTION 86. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign limited liability company authorized to transact business in this Commonwealth shall be the company's agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company.

(2) A foreign limited liability company may be served by registered or certified mail, return receipt requested, addressed to the appropriate representative of the foreign limited liability company at its principal office shown in its

application for a certificate of authority or in its most recent annual report, if the foreign limited liability company:

(a) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(b) Has withdrawn from transacting business in this Commonwealth under Section 87 of this Act; or

(c) Has had its certificate of authority revoked under Section 89 of this Act.

(3) Service is perfected under subsection (2) of this section at the earliest of:

(a) The date the foreign limited liability company receives service by mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign limited liability company; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) This section shall not prescribe the only means, or necessarily the required means, of serving a foreign limited liability company.

SECTION 87. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company authorized to transact business in this Commonwealth shall not withdraw from this Commonwealth until it obtains a certificate of withdrawal from the Secretary of State.

(2) A foreign limited liability company authorized to transact business in this Commonwealth may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign limited liability company and the name of the state or country under whose law it is organized;

(b) A statement that it is not transacting business in this Commonwealth and that it surrenders its authority to transact business in this Commonwealth;

(c) A statement that it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this Commonwealth;

(d) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under subsection (2) or (3) of this section; and

(e) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(3) After the withdrawal of the limited liability company is effective, service of process on the Secretary of State under this section shall be service on the foreign limited liability company. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability company at the mailing address set forth under subsection (2) of this section.

SECTION 88. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

The Secretary of State may commence a proceeding under Section 89 of this Act to revoke the certificate of authority of a foreign limited liability company authorized to transact business in this Commonwealth if:

(1) The foreign limited liability company does not file its annual report to the Secretary of State within sixty (60) days after it is due;

(2) The foreign limited liability company is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;

(3) The foreign limited liability company does not inform the Secretary of State under Sections 84 and 85 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance;

(4) A member or manager of the limited liability company or person organizing the foreign limited liability company signed a document the member, manager, or person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or

(5) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of limited liability company records in the state or country under whose law the foreign limited liability company is organized stating that it has been dissolved or disappeared as the result of a merger or other event.

SECTION 89. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If the Secretary of State determines that one (1) or more grounds exist under Section 88 of this Act for revocation of a certificate of authority, the Secretary of State shall serve the foreign limited liability company with written notice of its determination by mailing the notice by first class mail to the foreign limited liability company at its registered office.

(2) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable

satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the mailing of the notice, the Secretary of State shall revoke the foreign limited liability company's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy to the foreign limited liability company by mailing notice by first class mail to the foreign limited liability company at its registered office.

(3) The authority of a foreign limited liability company to transact business in this Commonwealth shall cease on the date shown on the certificate of revocation.

(4) The Secretary of State's revocation of a foreign limited liability company's certificate of authority shall have the effect of appointing the Secretary of State as the foreign limited liability company's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability company was authorized to transact business in this Commonwealth. Service of process on the Secretary of State under this subsection shall be service on the foreign limited liability company. Upon receipt of process, the Secretary of State shall mail a copy of the process to the appropriate representative of the foreign limited liability company at its principal office as shown in its most recent annual report or in any subsequent communication received from the foreign limited liability company stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(5) Revocation of a foreign limited liability company's certificate of authority shall not terminate the authority of the registered agent of the foreign limited liability company.

SECTION 90. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company may appeal the Secretary of State's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after the service of certificate of revocation. The foreign limited liability company may petition the court to set aside the revocation by attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.

(2) The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 91. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company organized and existing under this chapter may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state or foreign country.

SECTION 92. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

It shall be the policy of the General Assembly through this chapter to give maximum effect to the principles of freedom of contract and the enforceability of operating agreements. Unless displaced by particular provisions of this chapter, the principles of law and equity shall supplement this chapter. Although this chapter is in derogation of common law, the rules of construction that require strict construction of statutes which are in derogation of common law shall not apply to its provisions. This chapter shall not be construed to impair the obligations of any contract existing when this chapter, or any amendment of it, becomes effective, nor to affect any action or proceeding begun or right accrued before the chapter or amendment takes effect.

SECTION 93. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

This chapter shall be known and may be cited as the "Kentucky Limited Liability Company Act."

Section 94. KRS 362.155 is amended to read as follows:

In KRS 362.150 to 362.360*:*

(1) "Court" includes every court and judge having jurisdiction in the case.

(2) "Business" includes every trade, occupation, or profession.

(3) "Person" includes individuals, partnerships, corporations, and other associations.

(4) "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

(5) "Conveyance" includes every assignment, lease, *mortgage* [~~mortgages~~], or encumbrance.

(6) "Real Property" includes land and any interest or estate in land.

(7) "Registered limited liability partnership" includes a partnership formed pursuant to an agreement governed by the laws of this Commonwealth or a state or jurisdiction registered under Section 102 of this Act and complying with Section 103 of this Act.

Section 95. KRS 362.175 is amended to read as follows:

(1) A partnership is an association of two (2) or more persons to carry on as co-owners a business for profit *and includes, for all purposes of the laws of this Commonwealth, a registered limited liability partnership*.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under KRS 362.150 to 362.360, unless such association would have been a partnership in this state prior to the adoption of KRS 362.150 to 362.360; but KRS 362.150 to 362.360 shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith.

Section 96. KRS 362.190 is amended to read as follows:

(1) ***Subject to the limitations set forth in KRS 362.220(2),*** every partner ***shall be*** [~~is~~] an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member ***shall bind*** [~~binds~~] the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no [~~such~~] authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way ***shall*** [~~does~~] not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one (1) or more but less than all the partners ***shall*** have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;

(b) Dispose of the goodwill of the business;

(c) Do any other act which would make it impossible to carry on the ordinary business of a partnership;

(d) Confess a judgment;

(e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

Section 97. KRS 362.220 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, all partners ***shall be*** [~~are~~] liable:

(a)[~~(1)~~] Jointly and severally for everything chargeable to the partnership under KRS 362.210 and 362.215***; and***[~~.~~]

(b)[~~(2)~~] Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(2) Subject to subsection (3) of this section and subject to any agreement among the partners, a partner in a registered limited liability partnership shall not be liable directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for debts, obligations, and liabilities of or chargeable to the partnership, whether arising in tort, contract, or otherwise, arising from negligence, malpractice, wrongful acts, or misconduct committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(3) Subsection (2) of this section shall not affect the liability of a partner in a registered limited liability partnership for his own negligence, wrongful acts, or misconduct.

Section 98. KRS 362.235 is amended to read as follows:

The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property, and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and***,*** ***except as provided in KRS 362.220(2), each partner shall*** [~~must~~] contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) ***Except as provided in KRS 362.220(2),*** the partnership ***shall*** [~~must~~] indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner ***shall be*** [~~is~~] entitled to remuneration for acting in the partnership business, except that a surviving partner ***shall be*** [~~is~~] entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person ***shall*** [~~can~~] become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners ***shall*** [~~may~~] be done rightfully without the consent of all the partners.

Section 99. KRS 362.315 is amended to read as follows:

Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner, acting for the partnership had knowledge of the dissolution***;*** [~~, or~~]

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy***; or***

(3) The liability arises from a debt, obligation, or liability for which the partner is not liable as provided in KRS 362.220(2).

Section 100. KRS 362.325 is amended to read as follows:

(1) The dissolution of the partnership ***shall*** [~~does~~] not of itself discharge the existing liability of any partner.

(2) A partner ***shall be*** [~~is~~] discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor***,*** and the person or partnership continuing the business; and ***the*** [~~such~~] agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) ***If*** [~~Where~~] a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of ***the*** [~~such~~] obligations.

(4) The individual property of a deceased partner shall be liable for [~~all~~] obligations of the partnership incurred while he was a partner ***and for which he was liable under KRS 362.220*** but subject to the prior payment of his separate debts.

Section 101. KRS 362.345 is amended to read as follows:

In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

  (a) The partnership property,

  (b) The contributions of the partners [~~necessary for the payment of all the liabilities~~] specified in subsection ***(4)*** [~~(2)~~] of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

  (a) Those owing to creditors other than partners,

  (b) Those owing to partners other than for capital and profits,

  (c) Those owing to partners in respect of capital,

  (d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subsection (1) of this section to the satisfaction of the liabilities.

(4) ***Except as provided in KRS 362.220 (2):***

  (a) The partners shall contribute, as provided by subsection (1) of KRS 362.235 the amount necessary to satisfy the liabilities***; and***

  (b) [~~but~~] If any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in subsection (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subsection (4) of this section, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subsection (4) of this section.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) ***If*** [~~Where~~] a partner has become bankrupt or his estate is insolvent***,*** the claims against his separate property shall rank in

the following order:

(a) Those owing to separate creditors,

(b) Those owing to partnership creditors,

(c) Those owing to partners by way of contribution.

SECTION 102. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) To become and to continue as a registered limited liability partnership, a partnership shall file with the Secretary of State a statement or a renewal statement, as the case may be, stating the name of the partnership; the address of its principal office, if the partnership's principal office is not located in this state; the number of partners; a brief statement of the business in which the partnership engages; and that the partnership registers its status or renews its status, as the case may be, as a registered limited liability partnership.

(2) The statement or renewal statement shall be executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a statement or renewal statement.

(3) The statement or renewal statement shall be accompanied by a fee of one hundred dollars ($100).

(4) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed statement or renewal statement with the required fee.

(5) Registration shall be effective for one (1) year after the date a statement is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original statement or a renewal statement, as a registered limited liability partnership shall be renewed if, during the sixty (60) day period preceding the date the statement or renewal statement otherwise would have expired, the partnership files with the Secretary of State a renewal statement. Registration pursuant to a renewal statement shall expire one (1) year after the date the registration would have expired if the last renewal of the registration had not occurred.

(6) The status of a partnership as a registered limited liability partnership shall not be affected by changes made in the information stated in the statement or renewal statement after the filing of the statement or renewal statement.

(7) The Secretary of State may provide forms for use under this section.

SECTION 103. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or the abbreviation "LLP" as the last words or letters of its name.

(2) The name shall not be the same as and shall be distinguishable upon the records of the Secretary of State from:

  (a) The name of any corporation, limited partnership, limited liability company, or registered limited liability partnership organized under the laws of this Commonwealth or authorized or registered as a foreign corporation, foreign limited partnership, foreign limited liability company, foreign registered limited liability partnership in this Commonwealth, or the name of any nonprofit corporation, fictitious name adopted for use by a foreign corporation, or assumed name; or

  (b) A name which is reserved or registered by another person under the laws of this Commonwealth.

SECTION 104. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A registered limited liability partnership, formed and existing under Sections 94 to 107 of this Act, may conduct its business, carry on its operations, and have and exercise the powers granted by Sections 94 to 107 of this Act in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the General Assembly that the legal existence of any registered limited liability partnership formed and existing under Sections 94 to 107 of this Act shall be recognized outside the boundaries of this Commonwealth, and that the laws of this Commonwealth governing any registered limited liability partnership transacting business outside this Commonwealth shall be granted the protection of full faith and credit under the Constitution of the United States.

(3) It is the policy of this Commonwealth that the internal affairs of registered limited liability partnerships, formed and existing under Sections 94 to 107 of this Act, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this Commonwealth.

(4) Subject to any statutes for the regulation and control of specific types of business and subject to Section 105 of this Act, limited liability partnerships, formed and existing under the laws of another state or jurisdiction, may engage in any business in this Commonwealth.

(5) It is the policy of this Commonwealth that the internal affairs of partnerships, including limited liability partnerships, formed and existing under the laws of another state or jurisdiction, including the liability of partners

for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of that other state or jurisdiction.

SECTION 105. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Before transacting business in this Commonwealth, a foreign limited liability partnership shall register with the Secretary of State. In order to register and maintain registration, a foreign limited liability partnership shall submit a statement and renew the statement in the same manner as is required under Section 102 of this Act in the case of a domestic registered limited liability partnership. The registration shall be governed by Section 102 of this Act as if the foreign limited liability partnership were a domestic registered limited liability partnership.

(2) A foreign limited liability partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that includes the words "Registered Limited Liability Partnership" or its abbreviation "LLP" and that could be used by a domestic registered limited liability partnership in accordance with Section 103 of this Act.

(3) The voluntary withdrawal of a statement pursuant to subsection (5) of Section 102 of this Act shall not terminate the authority of the Secretary of State to accept service of process on the foreign registered limited liability partnership with respect to causes of action arising out of the transaction of business in this Commonwealth.

(4) The Attorney General may bring an action to enjoin a foreign limited liability partnership from transacting business in this Commonwealth if any requirements of Section 102 of this Act have not been met.

SECTION 106. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) The failure of a registered limited liability partnership to comply with any requirements of Section 102 of this Act shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the registered limited liability partnership or prevent the registered limited liability partnership from defending any action, suit, or proceeding in any court of this Commonwealth.

(2) Subject to subsection (3) of this section, the protection from liability of a partner of a registered limited liability partnership under KRS 362.220(2) shall not be altered by reason of the failure of the partnership to comply with any requirements of Section 102 of this Act.

(3) A partner in a partnership which has previously filed a statement under Section 102 of this Act, and which has failed to comply with the renewal statement requirements of Section 102 of this Act, shall not be entitled to protection from liability under KRS 362.220(2) in any action or proceeding brought by any person who did business with the partnership during the period it failed to comply and who did not at that time have actual knowledge that it was a limited liability partnership.

(4) A foreign limited liability partnership, by transacting business in this Commonwealth, shall be deemed to appoint the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this Commonwealth.

SECTION 107. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A partnership may sue or be sued in its common name. A judgment by or against a partnership shall bind the partnership as if it were a legal entity. A judgment against a partnership shall not bind a partner in his individual capacity except to the extent permitted by KRS 362.220.

Section 108. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, ***registered limited liability partnerships,*** [~~and~~] joint stock companies***, and limited liability companies***;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions, and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year; and

(38) "City" includes town.

The Committee Substitute to **SB 184** is as follows:

SB 184, AN ACT relating to commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 275 IS ESTABLISHED AND A SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

A limited liability company may be organized under this chapter for any lawful purpose, including the provision of one (1) or more professional services conducted in or outside the Commonwealth. Except as otherwise provided in Section 30 of this Act, if the purpose for which a limited liability company is organized or its activities make it subject to one (1) or more special provisions of law, the limited liability company shall also comply with those provisions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Except as otherwise set forth in this chapter or unless the articles of organization or operating agreement provide otherwise, every limited liability company shall have the powers to do all things necessary or convenient to carry out its business and affairs. Professional limited liability companies shall be governed by the laws, whether statutory or common law, applicable to other limited liability companies. Except for those provisions concerning the personal liability of members, managers, employees, and agents of a limited liability company, nothing in this chapter shall restrict, limit, or expand in any manner the authority and duty of any regulating board to:

(1) License individual persons providing professional services; and

(2) Regulate the practice of persons providing professional services which are within the jurisdiction of the regulating board, even though the persons are members, managers, employees, or agents of a professional limited liability company, or provide professional services through a professional limited liability company, including the establishment of regulations concerning:

  (a) The qualifications of members or managers of a professional limited liability company;

  (b) The transfer of limited liability company interests in a professional limited liability company; or

  (c) The provision of one (1) or more professional services through a professional limited liability company.

SECTION 3. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" means the articles filed in conformity with the provisions of Sections 4 and 5 of this Act, and those articles as amended or restated.

(2) "Business entity" means domestic and foreign limited liability companies, general and limited partnerships, corporations, business trusts, and sole proprietorships.

(3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country.

(4) "Court" means every court having jurisdiction in the case.

(5) "Event of disassociation" means an event that causes a person to cease to be a member as provided in Section 56 of this Act.

(6) "Foreign limited liability company" means an organization that is:

  (a) An unincorporated association;

  (b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and

  (c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity.

(7) "Knowledge" means actual knowledge of a fact.

(8) "Limited liability company" or "domestic limited liability company": means an unincorporated association formed under this chapter.

(9) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with Section 39 of this Act.

(10) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country.

(11) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with Section 33 of this Act.

(12) "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in Section 55 of this Act and who have not ceased to be members as provided in Section 56 of this Act.

(13) "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and

adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and shall be void and unenforceable.

(14) "Person" means an individual, a general partnership, a limited liability partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity.

(15) "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located.

(16) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(17) "Proceeding" means civil suit and criminal, administrative, and investigative action.

(18) "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies.

(19) "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys.

(20) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide.

SECTION 4. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

One (1) or more persons may form a limited liability company by delivering articles of organization to the Secretary of State for filing. It shall not be necessary that the person or persons be members of the limited liability company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The articles of organization shall set forth:

(a) A name for the limited liability company that satisfies the requirements of Section 20 of this Act;

(b) The street address of the limited liability company's initial registered office, and the name of its initial registered agent at that office;

(c) The mailing address of the initial principal office of the limited liability company;

(d) A statement that the limited liability company has at least two (2) or more members;

(e) A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members; and

(f) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve.

(2) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.

(3) The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.

(4) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the articles of organization.

(5) A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.

SECTION 6. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may amend its articles of organization to add, change, or delete a provision that is required or permitted in the articles of organization or to delete a provision not required in the articles. The articles of organization shall be amended if:

(a) There is a change in the name of the limited liability company;

(b) There is a change in the latest date upon which the limited liability company is to dissolve;

(c) There is a change in whether the management of the limited liability company is vested in managers or members; or

(d) There is a change in any other matter set forth in the articles of organization under Section 5 of this Act.

(2) Except as provided in subsection (3) of this section, or unless the articles of organization or the operating agreement provide otherwise, an amendment to the articles of organization of a limited liability company shall be approved by the members in accordance with Section 35 of this Act.

(3) Unless the articles of organization or the operating agreement provide otherwise, a manager or, if there is no manager, any member may amend the articles of organization of the limited liability company without action by the members to delete:

(a) The name and address of the initial registered agent or initial registered office if a statement of change pursuant to Section 24 of this Act is on file with the Secretary of State; or

(b) The mailing address of the initial principal office, if a statement of change pursuant to Section 8 of this Act is on file with the Secretary of State.

(4) To amend its articles of organization, a limited liability company shall file with the Secretary of State articles of amendment setting forth:

(a) The name of the limited liability company;

(b) The text of each amendment adopted;

(c) The date of each amendment's adoption; and

(d) A statement that the amendment was duly adopted by the managers or the members in accordance with the articles of organization, the operating agreement of the limited liability company, or this chapter.

(5) The articles of organization may be amended in any respect as may be desired, if the articles of organization as amended contain only provisions that may be lawfully contained in articles of organization at the time of making the amendment.

SECTION 7. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may restate its articles of organization by delivering to the Secretary of State for filing articles of restatement setting forth the name of the limited liability company and the text of the restated articles of organization together with a certificate stating whether the restatement contains an amendment to the articles of organization requiring member approval and, if it does, setting forth the information required by subsection (4) of Section 6 of this Act.

(2) Restated articles of organization shall supersede the original articles of organization and all amendments to them when the restated articles of organization become effective pursuant to Section 12 of this Act.

(3) The Secretary of State may certify restated articles of organization as the articles of organization currently in effect, without including the certificate information required by subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company that changes the mailing address of its principal office shall deliver to the Secretary of State for filing, on a form supplied by the Secretary of State, a statement of change that sets forth:

(1) The name of the limited liability company;

(2) The mailing address of its principal office prior to the change; and

(3) The new mailing address of its principal office.

SECTION 9. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A document shall satisfy the requirements of this section, and of any other section of this chapter that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(2) This chapter shall require or permit filing the document in the Office of the Secretary of State.

(3) The document shall contain the information required by this chapter. It may also contain other information.

(4) The document shall be typewritten or printed. The typewritten or printed portion shall be in black. Manually signed photocopies, or other reproduced copies, of typewritten or printed documents may be filed.

(5) The document shall be in the English language. A limited liability company name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any document that may be filed by a foreign limited liability company which is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably authenticated English translation.

(6) Unless otherwise provided in any other section of this chapter, any document required by this chapter to be filed with the Secretary of State shall be executed:

(a) If management of the limited liability company is vested in one (1) or more managers, by any one (1) of the managers;

(b) If management of the limited liability company is reserved to the members, by any one (1) of the members;

(c) If the limited liability company has not been formed, by the persons forming a limited liability company; or

(d) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(7) The persons executing the document shall sign it and state beneath or opposite their signatures the names of the persons and the capacity in which each signs.

(8) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the execution of the document shall not be required to be provided to or filed with the Secretary of State.

(9) If the Secretary of State has prescribed a mandatory form for a document, the document shall be in or on the prescribed form.

(10) The document shall be delivered to the Secretary of State for filing and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, and any other fee or penalty required by this chapter or other law to be collected by the Office of Secretary of State.

(11) One (1) of the exact or conformed copies shall be filed with and recorded by the county clerk of the county in which the registered office of the limited liability company is situated.

SECTION 10. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State shall prescribe and furnish on request forms for:

(a) A certificate of existence or authorization;

(b) An application for a certificate of authority;

(c) An application for a certificate of withdrawal;

(d) A statement of change of registered office or registered agent;

(e) A statement of change of principal office address;

(f) The annual report; and

(g) Amended application for certificate of authority.

(2) The Secretary of State shall have the discretion to make mandatory the use of the forms referred to in subsection (1) of this section.

(3) The Secretary of State shall prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter, but their use shall not be mandatory.

SECTION 11. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a) Articles of organization	*$ 40.00*
(b) Application for certificate of authority as a foreign limited liability company	*$ 90.00*
(c) Amendment of article of organization	*$ 40.00*
(d) Restatement of articles of organization	*$ 40.00*
(e) Amendment and restatement of articles of organization	*$ 80.00*
(f) Articles of dissolution with respect to a domestic limited liability company	*$ 40.00*
(g) Limited liability company's statement of change of registered agent or change of the address of the registered office, or both	*$ 10.00*
(h) Registered agent's statement of change of registered office for each affected limited liability company	*$ 10.00*
not to exceed a total of	*$ 1,000.00*
(i) Limited liability company's statement of change of the mailing address of the principal office	*$ 10.00*
(j) Application to reserve a name for use by a domestic or foreign limited liability company	*$ 15.00*

(k) Notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company	*$ 15.00*
(l) Application for use of indistinguishable name	*$ 20.00*
(m) Application for registered name	*$ 36.00*
(n) Application for renewal of registered name	*$ 36.00*
(o) Articles of merger	*$ 50.00*
(p) Application for amended certificate of authority	*$ 40.00*
(q) Application for certificate of withdrawal	*$ 40.00*
(r) Articles of correction	*$ 20.00*
(s) Certificate of existence or authorization	*$ 10.00*
(t) Reinstatement penalty following administrative dissolution	*$ 100.00*
(u) Annual report	*$ 15.00*

(v) Any other document required or permitted to be filed by this chapter $ 15.00

(2) The Secretary of State shall collect a fee of ten dollars ($10) each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if the party prevails in the proceeding.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(a) Fifty cents ($0.50) a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited liability companies.

SECTION 12. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section and subsection (3) of Section 13 of this Act, a document shall be effective at the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at the time specified in the document as its effective time on the date it is filed.

(2) A document may specify a delayed effective time and date; and if it does so and is filed pursuant to subsection (1) of this section, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

(3) A document filed in accordance with this section shall be effective regardless of a failure to file the document with the county clerk pursuant to subsection (11) of Section 9 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A domestic or foreign limited liability company may correct a document filed by the Secretary of State in accordance with subsection (2) of this section if the document:

(a) Contains an incorrect statement; or

(b) Was defectively executed, attested, sealed, verified, or acknowledged.

(2) A document shall be corrected:

(a) By preparing articles of correction that:

1. Describe the document, including its filing date, or have attached a copy of the document to the articles of correction;

2. Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and

3. Correct the incorrect statement or defective execution; and

(b) By delivering the articles of correction to the Secretary of State for filing.

(3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

SECTION 14. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If a document delivered to the Secretary of State for filing satisfies the requirements of Section 9 of this Act, the Secretary of State shall file it.

(2) The Secretary of State shall file a document by stamping or otherwise endorsing "Filed," together with the Secretary of State's name and official title and the date and time of receipt, on both the original and the document copies and on the receipt for the filing fee. After filing a document, except as provided in Sections 25 and 84 of this Act , the Secretary of State shall deliver the document copies, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign limited liability company or its representative.

(3) If the Secretary of State refuses to file a document, the Secretary of State shall return it to the domestic or foreign limited liability company or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.

(4) The Secretary of State's duty to file documents under this section shall be ministerial. The filing or refusal to file a document by the Secretary of State shall not:

(a) Affect the validity or invalidity of the document in whole or part;

(b) Relate to the correctness or incorrectness of information contained in the document; or

(c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

SECTION 15. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If the Secretary of State refuses to file a document delivered for filing, the domestic or foreign limited liability company may appeal the refusal to the Franklin Circuit Court. The appeal shall be commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation of the refusal to file.

(2) The court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(3) The court's final decision may be appealed as are other civil proceedings.

SECTION 16. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A certificate attached to a copy of the document filed by the Secretary of State, bearing his signature, which may be in facsimile, and the seal of this Commonwealth, shall be conclusive evidence that the original document is on file with the Secretary of State.

SECTION 17. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Anyone may apply to the Secretary of State to furnish a certificate of existence for a domestic limited liability company or a certificate of authorization for a foreign limited liability company.

(2) A certificate of existence or a certificate of authorization shall set forth:

(a) The domestic limited liability company's name or the foreign limited liability company's name used in this Commonwealth;

(b) That the domestic limited liability company is duly organized under the law of this Commonwealth, and the date of its organization, or that the foreign limited liability company is authorized to transact business in this Commonwealth;

(c) That all fees and penalties owed to the Secretary of State have been paid, if:

1. Payment is reflected in the records of the Secretary of State; and

2. Nonpayment affects the existence or authorization of the domestic or foreign limited liability company;

(d) That articles of dissolution have not been filed;

(e) That most recent annual report required by Section 38 of this Act has been delivered to the Secretary of State; and

(f) Other facts of record in the office of the Secretary of State that may be requested by the applicant.

(3) Subject to any qualifications stated in the certificate itself, the certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or authorized to transact business in this Commonwealth.

SECTION 18. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to sign a document the person knows is false in any material respect with intent

that the document be delivered to the Secretary of State for filing.

(2) Any person who violates the provisions of this section shall be guilty of a Class B misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

SECTION 19. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

All persons purporting to act as or on behalf of a limited liability company, knowing there has been no organization under this chapter, shall be jointly and severally liable for all liabilities created while so acting.

SECTION 20. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The name of each limited liability company as set forth in its articles of organization shall contain the words "limited liability company" or "limited company" or the abbreviations "LLC" or "LC". The name of each limited liability company which is a professional limited liability company shall contain the words "professional limited liability company" or "professional limited company" or the abbreviations "PLLC" or "PLC". The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

(2) Except as authorized by subsections (3) and (4) of this section, the name of a limited liability company shall be distinguishable from any name on record with the Secretary of State.

(3) A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:

(a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or

(b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(4) A limited liability company may use the name, including the fictitious name, with any modification required by this section or Section 82 of this Act of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the limited liability company:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the other business entity; or

(c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.

(5) This chapter shall not control the use of fictitious names.

(6) The filing of articles of organization under the particular name of the limited liability company shall not automatically prevent the use of that name or protect that name from use by other persons.

SECTION 21. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A person may apply to the Secretary of State to reserve the exclusive use of a limited liability company name, including the fictitious name, for a foreign limited liability company whose limited liability company name is not available for use in this Commonwealth. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for one (1) nonrenewable period of one hundred twenty (120) days.

(2) The holder of a reserved limited liability company name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

SECTION 22. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company may register its name, or its name with any addition required by Section 82(1)(a) of this Act, if the name is distinguishable upon the records of the Secretary of State as required under Section 20 of this Act.

(2) A foreign limited liability company shall register its name, or its name with any addition required by Section 82(1)(a) of this Act, by delivering to the Secretary of State for filing an application setting forth:

(a) Its name, or its name with any addition required by Section 82(1)(a) of this Act;

(b) The state or country and date of its organization;

(c) A brief description of the nature of the business in which it is engaged; and

(d) A statement that the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation.

(3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.

(4) A foreign limited liability company whose registration is effective may renew it for successive years by delivering to

the Secretary of State for filing a renewal application between October 1 and December 31 of the preceding year. The renewal application shall comply with the requirements of subsection (2) of this section and when filed shall renew the registration for the following calendar year.

(5) A foreign limited liability company whose registration is effective may thereafter qualify as a foreign limited liability company under the registered name or consent in writing to the use of that name by a limited liability company thereafter organized under this chapter or by another foreign limited liability company thereafter authorized to transact business in this Commonwealth. The registration shall terminate when the domestic limited liability company is organized or the foreign limited liability company qualifies or consents to the qualification of another foreign limited liability company under the registered name.

SECTION 23. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic limited liability company and each foreign limited liability company authorized to transact business in the Commonwealth pursuant to Sections 76 to 90 of this Act shall continuously maintain in this Commonwealth:

(a) A registered office that may be the same as any of its places of business; and

(b) A registered agent who shall be either:

1. An individual who is a resident of this Commonwealth and whose business office is identical with the registered office;

2. A domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office; or

3. A foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

SECTION 24. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company, or a foreign limited liability company authorized to transact business in the Commonwealth pursuant to Sections 76 to 90 of this Act, may change its registered office or registered agent, or both, upon filing in the office of the Secretary of State a statement of change on a form supplied by the Secretary of State that sets forth:

(a) The name of the limited liability company or foreign limited liability company;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of the new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the registered agent's business office to another place within this Commonwealth, the registered agent shall change the street address of the registered office of any limited liability company or foreign limited liability company of which the registered agent is a registered agent by notifying the limited liability company in writing of the change, and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the limited liability company has been notified of the change.

(3) The change of address of the registered office or registered agent shall be effective on delivery of the statement to the Secretary of State. The appointment of a new registered agent shall be effective on delivery of the statement to the Secretary of State and on receipt by the Secretary of State of evidence that the new registered agent has accepted appointment pursuant to subsection (2) of Section 23 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A registered agent may resign as registered agent by signing and delivering to the Secretary of State for filing the executed original and two (2) exact or conformed copies of a statement of resignation. The statement may also include a statement that the registered office is also discontinued.

(2) After filing the statement, the Secretary of State shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the limited liability company at its principal office.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

SECTION 26. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A domestic or foreign limited liability company's registered agent shall be the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.

(2) If a domestic or foreign limited liability company has no registered agent in this Commonwealth, or the registered agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at its principal office. Service shall be perfected under this subsection at the earliest of:

(a) The date the limited liability company receives the mail;

(b) The date shown on the return receipt, if signed on behalf of the limited liability company; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(3) This section shall not prescribe the only means, or necessarily the required means, of serving a domestic or foreign limited liability company.

SECTION 27. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, every member shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge or has received notification of the fact that the member has no such authority.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) No member, solely by reason of being a member, shall be an agent of the limited liability company; and

(b) Every manager shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is the manager shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge or has received notification of the fact that the manger has no such authority.

(3) An act of a manager or a member which is apparently not for the carrying on in the usual way of the business or affairs of the limited liability company shall not bind the limited liability company unless, at the time of the transaction or at any other time, the act is authorized in accordance with the operating agreement.

(4) An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.

SECTION 28. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, an admission, statement, or representation made by any member concerning the business or affairs of a limited liability company within the scope of the member's authority as provided for by this chapter shall be evidence against the limited liability company.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) An admission, statement, or representation made by a manager concerning the business or affairs of a limited liability company within the scope of the manager's authority as provided for by this chapter shall be evidence against the limited liability company; and

(b) The admission, statement, or representation of any member, acting solely in the capacity of a member, shall not constitute evidence against the limited liability company.

SECTION 29. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, notice to any member of any matter relating to the business or affairs of the limited liability company, and the knowledge of the member acting in the particular matter, acquired while a member or known at the time of becoming a member, and the knowledge of any other member who reasonably could and should have communicated the knowledge to the acting member, shall operate as notice to or knowledge of the limited liability company, except in the case of a fraud on the limited liability company committed

by or with the consent of that member.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) Notice to any manager of any matter relating to the business or affairs of the limited liability company, and the knowledge of the manager acting in the particular matter, acquired while a manager or known at the time of becoming a manager, and the knowledge of any other manager who reasonably could and should have communicated the knowledge to the acting manager, shall operate as notice to or knowledge of the limited liability company, except in the case of a fraud on the limited liability company committed by or with the consent of that manager; and

(b) Notice to or knowledge of any member of the limited liability company while the member is acting solely in the capacity of a member shall not constitute notice to or knowledge of the limited liability company.

SECTION 30. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Except as otherwise specifically set forth in this chapter, no member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall be personally liable by reason of being a member, manager, employee, or agent of the limited liability company, under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise. The status of a person as a member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall not subject the person to personal liability for the acts or omissions, including any negligence, wrongful act, or actionable misconduct, of any other member, manager, agent, or employee of the limited liability company.

SECTION 31. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A member of a limited liability company shall not be a proper party to a proceeding by or against a limited liability company, solely by reason of being a member of the limited liability company, except if the object of the proceeding is to enforce a member's right against or liability to the limited liability company or as otherwise provided in an operating agreement.

SECTION 32. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company may conduct its business, carry on its operations, and exercise the power granted by this chapter in any state, or in any foreign country.

(2) The personal liability of members, managers, employees, and agents of a limited liability company to any person or in any action or proceeding for the debts, obligations, or liabilities of a limited liability company or for the acts of omissions of other members, managers, employees, or agents of a limited company shall be governed solely and exclusively by this chapter and the laws of this Commonwealth. When a conflict arises between the law of this state and the laws of any other state with regard to the liability of the members of the limited liability company for the debts, obligations, and liabilities of the limited liability company, or of the acts or omissions of other members, managers, employees, or agents of the limited liability company, this Commonwealth's law shall be deemed to govern in determining the liability.

SECTION 33. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of more than one-half (1/2) by number of the members;

(b) Shall not be required to be members of the limited liability company or natural persons; and

(c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.

SECTION 34. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in an operating agreement:

(1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability

company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.

(2) Each member and manager shall account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers or members, or other persons participating in the management of the business or affairs of the limited liability company from:

- *(a) Any transaction connected with the conduct or winding up of the limited liability company; or*
- *(b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his status as manager or member.*

(3) One who is a member of the limited liability company in which management is vested in managers under subsection (2) of Section 33 of this Act and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his capacity as a member.

SECTION 35. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in the articles of organization, an operating agreement, or this chapter, and subject to subsection (2) of this section, the affirmative vote, approval, or consent of more than one-half (1/2) by number of the members, if management of the limited liability company is vested in the members, or of the managers, if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.

(2) Unless otherwise provided in writing in the operating agreement, the affirmative vote, approval, or consent of all members shall be required to:

- *(a) Amend a written operating agreement;*
- *(b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or*
- *(c) Amend the articles of organization to change the management of the limited liability company from members to managers or from managers to members.*

SECTION 36. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

The operating agreement may:

(1) Eliminate or limit the personal liability of a member or manager for monetary damages for breach of any duty provided for in Section 34 of this Act; and

(2) Provide for indemnification of a member or manager for judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which a person is a party because the person is or was a member or manager.

SECTION 37. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A limited liability company shall keep at its principal office or other location as set forth in a written operating agreement, the following:

- *(a) A current list, and all past lists, setting forth the full name and last known mailing address of each member and manager, if any;*
- *(b) A copy of the articles of organization and all amendments thereto, together with executed copies of any power of attorney pursuant to which any articles of amendment have been executed;*
- *(c) Copies of the limited liability company's federal, state, and local income tax returns and financial statements, if any, for the three (3) most recent years or, if those returns and statements were not prepared, copies of the information and statements provided to, or which should have been provided to, the members to enable them to prepare their federal, state, and local tax returns for those years;*
- *(d) Copies of any effective written operating agreements and all amendments thereto, and copies of any written operating agreements no longer in effect; and*
- *(e) Unless contained in writing in an operating agreement:*
  - *1. A writing setting forth the amount of cash, if any, and a statement of the agreed value of other property or services, if any, contributed by each member and the times at which or events upon the happening of which any additional contributions are to be made;*
  - *2. A writing stating events, if any, upon the happening of which the limited liability company is to be dissolved and its affairs wound up; and*
  - *3. Other writings, if any, prepared pursuant to a requirement, if any, in an operating agreement.*

(2) Upon reasonable written request, a member may, at the member's own expense, inspect and copy during ordinary

business hours any limited liability company record, where the record is located or at a reasonable location.

(3) Members, if the management of the limited liability company is vested in the members, or managers, if management of the limited liability company is vested in managers, shall render, to the extent the circumstances render it just and reasonable, true and full information of all matters affecting the members to any member, and the member's agent, and to the legal representative of any deceased member or of any member under legal disability.

(4) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section shall not be grounds for imposing liability on any member or manager for the debts and obligations of the limited liability company.

SECTION 38. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic limited liability company, and each foreign limited liability company authorized to transact business in this Commonwealth, shall deliver to the Secretary of State for filing an annual report that sets forth:

(a) The name of the limited liability company and the state or country under whose law it is organized;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its managers, if management is vested in managers, or one (1) or more designated members, if management is vested in members.

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the limited liability company.

(3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic limited liability company was organized or a foreign limited liability company was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction.

SECTION 39. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company interest may be issued in exchange for consideration consisting of cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

SECTION 40. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A promise by a member to contribute to the limited liability company shall not be enforceable unless set forth in a writing signed by the member.

(2) Unless otherwise provided in an operating agreement, a member shall be obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or other reason.

(3) If a member does not make the required contribution of property or services, the member shall be obligated, at the option of the limited liability company, to contribute cash equal to that portion of value of the stated contribution that has not been made.

(4) Unless otherwise provided in an operating agreement, the obligation of a member to make a contribution may be compromised only with the unanimous consent of the members.

(5) Notwithstanding any compromise approved pursuant to subsection (4) of this section, a creditor of a limited liability company who extends credit or otherwise acts in reliance on the obligation after the member executes a writing which reflects the obligation and before the compromise may enforce the original obligation.

SECTION 41. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Profits and losses of a limited liability company shall be allocated among the members and among classes of members in a manner provided in the operating agreement. If the operating agreement does not otherwise provide, profits and losses shall be allocated on a per capita basis.

SECTION 42. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Sections 43 and 62 of this Act, distributions of cash or other assets of a limited liability company shall be allocated among the members and among classes of members in the manner provided in writing in an operating agreement. If an operating agreement does not so provide in writing, each member shall share equally in any distribution. A member shall be entitled to receive distributions described in this section from a limited liability company to the extent and at the times or upon the happenings of the events specified in an operating agreement or at the times determined by the members or managers pursuant to Section 35 of this Act.

SECTION 43. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Upon the occurrence of an event of disassociation under Section 56 of this Act which does not cause dissolution, other than an event of disassociation described in subsection (1)(c)2. of Section 56 of this Act, a disassociating member shall be entitled to receive any distribution which the member was entitled to receive prior to the event of disassociation. Within a reasonable time after disassociation, unless otherwise provided in the operating agreement, the disassociated member shall be entitled to receive the fair value of the member's limited liability company interest as of the date of disassociation based on the member's right to share in distributions from the limited liability company.

SECTION 44. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in an operating agreement:

(1) A member, regardless of the nature of the member's contribution, shall not have a right to demand and receive any distribution from the limited liability company in any form other than cash; and

(2) A member shall not be compelled to accept from a limited liability company a distribution of any asset in kind to the extent that the percentage of the asset distributed to the member exceeds the percentage that the member would have shared in a cash distribution equal to the value of the property at the time of distribution.

SECTION 45. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) No distribution shall be made if, after giving effect to the distribution:

(a) The limited liability company would not be able to pay its debts as they become due in the usual course of business; or

(b) The limited liability company's assets would be less than the sum of its liabilities plus, unless otherwise provided in an operating agreement, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution which are superior to the rights of the member receiving the distribution.

(2) The limited liability company may base a determination that a distribution is not prohibited under subsection (1) of this section either on:

(a) Financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or

(b) A fair valuation or other method that is reasonable under the circumstances.

(3) Except as provided in subsection (5) of this section, the effect of a distribution under subsection (1) of this section shall be measured as of:

(a) The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or

(b) The date payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

(4) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section shall be at parity with the limited liability company's indebtedness to its general unsecured creditors, except to the extent subordinated by agreement.

(5) If terms of the indebtedness provide that payment of principal and interest is to be made only if, and to the extent that, payment of a distribution to members could then be made under this section, indebtedness of a limited liability company, including indebtedness issued as a distribution, shall not be a liability for purposes of determinations made under subsection (1) of this section.

(6) If the indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which shall be measured on the date the payment is actually made.

SECTION 46. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A member or manager who votes for or assents to a distribution in violation of an operating agreement or Section 45 of this Act shall be personally liable to the limited liability company for the amount of the distribution that exceeds the amount that could have been distributed without violating Section 45 of this Act or an operating agreement if it is established that the member or manager did not comply with Section 34 of this Act.

(2) Each member or manager held liable under subsection (1) of this section for an unlawful distribution shall be entitled to contribution:

(a) From each other member or manager who could be held liable under subsection (1) of this section for the unlawful distribution; and

(b) From each member for the amount the member received in violation of Section 45 of this Act or an operating agreement.

(3) A proceeding under this section shall be barred unless it is commenced within two (2) years after the date on which

the effect of the distribution is measured under subsection (3) of Section 45 of this Act.

SECTION 47. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

At the time a member becomes entitled to receive a distribution, the member shall have the status of, and shall be entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

SECTION 48. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Property transferred to or otherwise acquired by a limited liability company shall be the property of the limited liability company and not of the members individually.

(2) Property may be acquired, held, and conveyed in the name of the limited liability company. Any estate in real property may be acquired in the name of the limited liability company, and title to any interest so acquired shall vest in the limited liability company rather than in the members individually.

SECTION 49. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (5) of this section, property of the limited liability company held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member in the name of the limited liability company.

(2) Property of the limited liability company that is held in the name of one (1) or more members or managers with an indication in the instrument transferring the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, if the name of the limited liability company is not indicated, may be transferred by an instrument of transfer executed by the persons in whose name title is held.

(3) Property transferred under subsection (1) or (2) of this section may be recovered by a limited liability company if the limited liability company proves that the execution of the instrument of transfer did not bind the limited liability company under Section 27 of this Act, unless the property has been transferred by the initial transferee or person claiming through the initial transferee to a subsequent transferee who gives value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the limited liability company.

(4) Property of the limited liability company held in the name of one (1) or more persons other than the limited liability company, without an indication in the instrument transferring title to the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, may be transferred free of any claims of the limited liability company or the members by the persons in whose name title is held to a transferee who gives value without having notice that it is property of a limited liability company.

(5) If the articles of organization provide that management of the limited liability company is vested in a manger or managers:

- *(a) Title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager in the name of the limited liability company; and*
- *(b) A member, solely by reason of being a member, shall not have authority to transfer property of the limited liability company.*

SECTION 50. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company interest shall be personal property.

SECTION 51. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in writing in an operating agreement:

- *(a) A limited liability company interest shall be assignable in whole or in part;*
- *(b) An assignment shall entitle the assignee to receive, to the extent assigned, only the distributions to which the assignor would be entitled;*
- *(c) An assignment of a limited liability company interest shall not dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or exercise any rights of a member other than the right to receive distributions pursuant to subsection (1)(b) of this section;*
- *(d) Until the assignee of a limited liability company interest becomes a member pursuant to subsection (1) of Section 53 of this Act, the assignor shall continue to be a member and to have the power to exercise any rights of a member, subject to the members' right to remove the assignor pursuant to subsection (1)(c)2. of Section 56 of this Act;*
- *(e) Until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment; and*

(f) The assignor of a limited liability company interest shall not be released from liability as a member solely as result of the assignment.

(2) An operating agreement may provide that a member's limited liability company interest may be evidenced by a certificate of limited liability company interest issued by the limited liability company and may also provide for the assignment or transfer of any interest represented by the certificate.

(3) Unless otherwise provided in an operating agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the limited liability company interest of a member shall not constitute an assignment, and shall not cause the member to cease to be a member or cease to have the power to exercise any rights or powers of a member.

SECTION 52. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the member's limited liability company interest with payment of the unsatisfied amount of judgment with interest thereon. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the member's limited liability company interest. This chapter shall not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest.

SECTION 53. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, an assignee of a limited liability company interest shall become a member only if the other members unanimously consent. The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of specification, consent shall be evidenced by one (1) or more written instruments, dated and signed by all members.

(2) An assignee who becomes a member shall have, to the extent assigned, the rights and powers, and shall be subject to the restrictions and liabilities, of a member under the articles of organization, any operating agreement, and this chapter. An assignee who becomes a member also shall be liable for any obligations of his assignor to make contributions under Section 40 of this Act. However, the assignee shall not be obligated for liabilities of which the assignee had no knowledge at the time he became a member and which could not be ascertained from the articles of organization or any written operating agreement.

(3) Unless otherwise provided in a written operating agreement, the assignor shall not be released from his liability to the limited liability company under Section 40 of this Act, whether or not an assignee of a limited liability company interest becomes a member.

(4) Unless otherwise provided in a written operating agreement, a member who assigns his entire limited liability company interest shall cease to be a member or to have the power to exercise any rights of the member when the assignee becomes a member with respect to the entire assigned interest.

SECTION 54. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage the member's person or property, the member's executor, administrator, guardian, conservator, or other legal representative shall have all of the rights of an assignee with respect to the member's interest.

SECTION 55. . A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsection (2) of this section, a person may become a member in a limited liability company:

(a) In the case of the person acquiring a limited liability company interest directly from a limited liability company, upon compliance with an operating agreement or, if an operating agreement does not so provide in writing, upon the written consent of all members; and

(b) In the case of an assignee of the limited liability company interest, as provided in Sections 51 and 53 of this Act.

(2) The effective time of admission of a member to a limited liability company shall be the later of:

(a) The date the limited liability company is formed; or

(b) The time provided in the operating agreement or, if no time is provided, when the person's admission is reflected in the records of the limited liability company.

SECTION 56. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A person shall cease to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:

(a) The member withdraws by voluntary act from the limited liability company as provided in subsection (3) of this section;

(b) The member ceases to be a member of the limited liability company as provided in Section 53 of this Act;

(c) The member is removed as a member:

1. In accordance with a written operating agreement; or

2. Unless otherwise provided in a written operating agreement, when the member assigns all of the member's interest in the limited liability company, by the written consent of all members who have not assigned their interest;

(d) Unless otherwise provided in writing a written operating agreement or by written consent of all members, at the time the member:

1. Makes an assignment for the benefit of creditors;

2. Files a voluntary petition in bankruptcy;

3. Is adjudicated bankrupt or insolvent;

4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or

6. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property;

(e) Unless otherwise provided in a written operating agreement or by written consent of all members at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member, or of all or any substantial part of the member's properties, the appointment is not vacated or stayed or within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;

(f) Unless otherwise provided in a written operating agreement or by written consent of all members at the time, in the case of a member that is an individual:

1. The member's death; or

2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage his or her person or estate;

(g) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;

(h) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;

(i) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the revocation of its articles of incorporation and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its articles of incorporation; or

(j) Unless otherwise provided in writing in a written operating agreement or by written consent of all members at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(2) The members may provide in a written operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.

(3) Unless a written operating agreement provides in writing that a member has no power to withdraw by voluntary act from a limited liability company, the member may do so at any time by giving thirty (30) days written notice to the other members, or other notice as provided in a written operating agreement. If the member has the power to withdraw but the withdrawal is a breach of an operating agreement, or the withdrawal occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover from the withdrawing member damages for breach of the operating agreement or as a result of the wrongful conduct, including the reasonable cost of obtaining replacement of the services the withdrawing member was obligated to perform and may offset the damages against the amount otherwise distributable to the withdrawing member, in addition to pursuing any remedies provided in an operating agreement or otherwise available under applicable law. Unless otherwise provided in an operating agreement, in the case of a limited liability company for a definite term or particular undertaking, a withdrawal by a member before the expiration of that term shall constitute a breach of the operating agreement.

SECTION 57. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company shall be dissolved and its affairs wound up upon the happening of the first to occur of the following:

(1) At the time or upon the occurrence of events specified in the articles of organization or a written operating agreement;

(2) The written consent of all members;

(3) Any event of disassociation of a member, unless:

(a) The business of the limited liability company is continued by the consent of all the remaining members on or before the ninetieth day following the occurrence of the event; or

(b) Otherwise provided in a written operating agreement;

(4) Entry of a decree of judicial dissolution under Section 58 of this Act; or

(5) Filing of a certificate of dissolution by the Secretary of State under Section 59 of this Act.

SECTION 58. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court, for the county in which the principal office of the limited liability company is located, or, if none, in the county of the registered office, may dissolve a limited liability company in a proceeding by a member if it is established that it is not reasonably practicable to carry on the business of the limited liability company in conformity with the operating agreement.

(2) Any decree dissolving the limited liability company pursuant to subsection (1) of this section shall specify the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.

(3) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the limited liability company's business and affairs in accordance with Section 60 of this Act and the notification of claimants in accordance with Sections 64 and 65 of this Act.

SECTION 59. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after service of the notice is perfected, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. State that the limited liability company's name satisfies the requirements under Section 20 of this Act;

4. Contain a certificate from the Kentucky Revenue Cabinet stating that all taxes owed by the limited liability company have been paid; and

5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in subsection (1) of Section 11 of this Act.

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination

and the effective date of existence; and

2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and

2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

SECTION 60. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in a written operating agreement:

(1) The business or affairs of the limited liability company may be wound up:

(a) By the members or managers who have authority pursuant to Section 33 of this Act to manage the limited liability company prior to dissolution; or

(b) If one (1) or more of the members or managers have engaged in wrongful conduct, or upon other cause shown, by the Circuit Court for the county in which the principal office of the limited liability company is located or in which the registered office of the limited liability company is located, on application of any member, any member's legal representative, or assignee.

(2) A dissolved limited liability company shall continue its existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) Collecting its assets;

(b) Disposing of its properties that will not be distributed in kind to its members;

(c) Discharging or making provision for discharging its liabilities;

(d) Distributing its remaining property among its members according to their interests; and

(e) Doing every other act necessary to wind up and liquidate its business and affairs.

(3) Dissolution of a limited liability company shall not:

(a) Transfer title to the limited liability company's property;

(b) Prevent transfer of a limited liability company interest, although the authorization to dissolve may provide for the limited liability company restricting the transfer of the limited liability company's interest;

(c) Subject its members or managers to standards of conduct different from those prescribed herein;

(d) Change quorum or voting requirements for its members or managers; change provisions for selection, resignation, or removal of its members or managers; or change provisions for amending its operating agreement;

(e) Prevent commencement of a proceeding by or against the limited liability company in its name;

(f) Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution;

(g) Terminate the authority of the registered agent of the limited liability company; or

(h) Alter the obligations and responsibilities of the limited liability company as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns.

SECTION 61. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsections (3) and (4) of this section, after dissolution of the limited liability company, each member or manager having authority to wind up the limited liability company's business and affairs may bind the limited liability company:

(a) By any act appropriate for winding up the limited liability company's affairs or completing transactions unfinished at dissolution; and

(b) By any other act that would have bound the limited liability company if it had not been dissolved, if the other party to the transaction did not have notice of the dissolution.

(2) The filing of articles of dissolution pursuant to Section 63 of this Act, the entry of a decree of dissolution pursuant to Section 58 of this Act, or the filing of a certificate of dissolution pursuant to Section 59 of this Act, shall be presumed to constitute notice of dissolution for purposes of subsection (1)(b) of this section.

(3) An act of a member or manager which is not binding on the limited liability company pursuant to subsection (1) of this section shall be binding if it is otherwise authorized by the limited liability company.

(4) An act of a member or manager which would be binding under subsection (1) of this section, or would be otherwise authorized but which is in contravention of a restriction on authority, shall not bind the limited liability company to persons having knowledge of the restriction.

SECTION 62. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(1) Payment, or adequate provisions for payment, shall be made to creditors, including, to the extent permitted by law, members who are creditors in satisfaction of liabilities of the limited liability company;

(2) Unless otherwise provided in a written operating agreement, to members or former members in satisfaction of liabilities for distributions under Sections 42 and 43 of this Act; and

(3) Unless otherwise provided in a written operating agreement, to members and former members first for the return of their contributions and second in proportion to the members' respective rights to share in distributions from the limited liability company prior to dissolution.

SECTION 63. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

After the dissolution of the limited liability company pursuant to subsection (1), (2), or (3) of Section 57 of this Act, the limited liability company shall file articles of dissolution with the Secretary of State which set forth:

(1) The name of the limited liability company;

(2) A statement of the subsection of Section 57 of this Act pursuant to which the limited liability company has dissolved;

(3) The effective date, which shall be a date certain, of the dissolution; and

(4) Any other information the members or managers filing the articles of dissolution shall deem proper.

SECTION 64. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Upon dissolution pursuant to Section 57 of this Act, a limited liability company may dispose of the known claims against it by filing, if required, articles of dissolution pursuant to Section 63 of this Act and by following the procedures described in this section.

(2) The limited liability company shall notify its known claimants in writing of the dissolution at any time after the effective date of dissolution. The written notice shall:

(a) Describe information that must be included in a claim;

(b) Provide a mailing address where a claim may be sent;

(c) State the deadline, which may not be fewer than one hundred twenty (120) days after the later of the date of the written notice, if required, or the filing of articles of dissolution pursuant to Section 63 of this Act, by which the limited liability company must receive the claim; and

(d) State that the claim will be barred if not received by the deadline.

(3) A claim against the limited liability company shall be barred:

(a) If a claimant who is given written notice under subsection (2) of this Section does not deliver the claim to the limited liability company by the deadline;

(b) If a claimant whose claim was rejected by the limited liability company does not commence a proceeding to enforce the claim within ninety (90) days after the date of the rejection notice.

(4) For purposes of this section, "claim" shall not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SECTION 65. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A dissolved limited liability company may publish notice of its dissolution pursuant to this section.

(2) The notice shall:

(a) Be published once in a newspaper of general circulation in the county where the limited liability company's principal office, or, if none in this state, its registered office, is or was last located;

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(c) State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within two (2) years, or five (5) years for a professional limited liability company, after the publication of the notice.

(3) If the dissolved limited liability company publishes a newspaper notice in accordance with subsection (2) of this section and, if required, files articles of dissolution pursuant to Section 63 of this Act, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the limited liability company within two (2) years, or five (5) years for a professional limited liability company, after the later of publication date of the newspaper notice or the filing of the articles of dissolution pursuant to Section 63 of this Act, the filing of a certificate of dissolution by the Secretary of State pursuant to subsection (2)(b) of Section 59 of this Act, or the filing of a decree of judicial dissolution by the Secretary of State pursuant to subsection (2) of Section 58 of this Act:

(a) A claimant who did not receive written notice under Section 64 of this Act;

(b) A claimant whose claim was timely sent to the limited liability company but not acted on;

(c) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(4) A claim may be enforced under this section:

(a) Against the limited liability company, to the extent of its undistributed assets; or

(b) If the assets have been distributed in liquidation, against a member of the limited liability company to the extent of his pro rata share of the claim or the assets of the limited liability company distributed to him in liquidation, whichever is less, but a member's total liability for all claims under this section shall not exceed the total amount of assets, less liabilities assumed or taken subject to, distributed to him.

SECTION 66. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Suit may be brought by or against the limited liability company in its own name.

SECTION 67. A NEW SECTION OF KRS GHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Unless otherwise provided in a written operating agreement, a suit on behalf of the limited liability company may be brought in the name of the limited liability company only by:

(1) One (1) or more members of a limited liability company, whether or not the operating agreement vests management of the limited liability company in one (1) or more managers, who are authorized to sue by the vote of more than one half (1/2) of the number of members eligible to vote thereon, unless the vote of all members shall be required pursuant to subsection (1) of Section 35 of this Act. In determining the vote required under Section 35 of this Act, the vote of any member who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded; or

(2) One (1) or more managers of the limited liability company, if an operating agreement vests management of the limited liability company in one (1) or more managers, who are authorized to do so by the vote required pursuant to Section 35 of this Act of the managers eligible to vote thereon. In determining the required vote, the vote of any manager who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded.

SECTION 68. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A determination that a member or manager does not have authority to sue on behalf of the limited liability company shall not be asserted as a defense to an action brought by the limited liability company or as a basis for the limited liability company to bring a subsequent suit on the same cause of action.

SECTION 69. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in writing in a written operating agreement, and subject to any law applicable to business entities other than limited liability companies, one (1) or more limited liability companies may merge with or into one (1) or more other business entities with the limited liability company or other business entity being the surviving or resulting limited liability company or other business entity.

(2) Rights or securities of or interests in a business entity that is a party to the merger may be exchanged for or converted into cash, property, obligations, rights, or securities of or interests in the surviving or resulting business

entity or of any other business entity.

SECTION 70. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in a written operating agreement, a limited liability company that is a party to a proposed merger shall approve the plan of merger in Section 71 of this Act by the unanimous consent of the members.

(2) Each business entity that is a party to a proposed merger shall approve the plan of merger in the manner and by the vote required by the laws applicable to the business entity.

(3) Each business entity that is a party to the merger shall have the rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity.

SECTION 71. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Each constituent business entity shall enter into a written plan of merger, which shall be approved in accordance with Section 70 of this Act.

(2) The plan of merger shall set forth:

- *(a) The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;*
- *(b) The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth whether limited liability is retained by the surviving business entity;*
- *(c) The manner and basis of converting the interests in each limited liability company and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;*
- *(d) The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired;*
- *(e) Other provisions relating to the proposed merger that are deemed necessary or desirable.*

SECTION 72. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The business entity surviving from the merger shall deliver to the Secretary of State for filing articles of merger duly executed by each constituent business entity setting forth:

- *(a) The name and jurisdiction of formation or organization of each constituent business entity which is to merge;*
- *(b) The plan of merger;*
- *(c) The name of the surviving business entity;*
- *(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with Section 70 of this Act; and*
- *(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:*
  - *1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and*
  - *2. Appoints the Secretary of State as its agent for service of process in any such proceeding. The surviving entity shall specify the address to which a copy of the process shall be mailed to it by the Secretary of State.*

(2) A merger shall take effect upon the later of the effective date of the filing of the articles of merger or the date set forth in the articles of merger.

(3) The articles of merger shall be executed by a limited liability company that is a party to the merger in the manner provided for in Section 9 of this Act, and shall be filed with the Secretary of State in the manner provided for in Section 9 of this Act.

(4) A plan of merger approved in accordance with Section 70 of this Act may effect any amendment to an operating agreement for a limited liability company if it is the surviving company in the merger. An approved plan of merger may also provide that the operating agreement of any constituent limited liability company to the merger, including a limited liability company formed for the purpose of consummating a merger, shall be the operating agreement of the limited liability company that is the surviving business entity. Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to this subsection shall be effective at the effective time or date of the merger. The provisions of this subsection shall not be construed to limit the accomplishment of a merger

or of any of the matters referred to in this section by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law.

SECTION 73. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A merger shall have the following effects:

(1) The constituent business entities that are parties to the merger shall be a single entity, which shall be the entity designated in the plan of merger as the surviving business entity.

(2) Each party to the merger, except the surviving business entity, shall cease to exist.

(3) The surviving business entity shall possess all the rights, privileges, immunities, and powers of each constituent business entity and shall be subject to all the restrictions, disabilities, and duties of each of the constituent entities to the extent the rights, privileges, immunities, powers, restrictions, disabilities, and duties are applicable to the type of business entity that is the surviving business entity.

(4) All property, real, personal, and mixed, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other choices in action, and all and every other interest of, belonging to, or due to each of the constituent business entities shall be vested in the surviving business entity without further act or deed.

(5) The title to all real estate and any interest therein, vested in any constituent business entity shall not revert or be in any way impaired by reason of the merger.

(6) The surviving entity shall thenceforth be liable for all liabilities and obligations of each of the constituent business entities merged, and any claim existing or action or proceeding pending by or against any constituent business entity may be prosecuted as if the merger had not taken place, or the surviving business entity may be substituted in the action.

(7) Neither the rights of creditors nor any liens on the property of any constituent business entity shall be impaired by the merger.

(8) The interests in a limited liability company or other business entities that are to be converted or exchanged into interests, other securities, cash, obligations, or other property under the terms of the plan of merger are so converted and the former holders thereof are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.

SECTION 74. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.

(2) The terms and conditions of a conversion of a partnership or limited partnership to a limited liability company shall, in the case of a partnership, be approved by all the partners or by a number or percentage specified for conversion in the partnership agreement or, in the case of a limited partnership, by all the partners, notwithstanding any provision to the contrary in the limited partnership agreement.

(3) After the conversion is approved under subsection (2) of this section, the partnership or limited partnership shall file articles of organization with the office of the Secretary of State which satisfy the requirements of Section 5 of this Act and include:

  (a) A statement that the partnership or limited partnership was converted to a limited liability company from a partnership or limited partnership, as the case may be;

  (b) Its former name;

  (c) In the case of a partnership, a statement of the number of votes cast by the partners entitled to vote for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement and a statement that any assumed name has been canceled; and

  (d) In the case of a limited partnership, the limited partnership shall cancel its certificate of limited partnership and any assumed name pursuant to this Commonwealth's limited partnership law.

(4) The conversion shall take effect, in the case of a partnership, when the articles of organization are filed with the office of the Secretary of State or at any later date specified in the articles of organization or, in the case of a limited partnership, when the certificate of limited partnership is canceled.

(5) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a conversion shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the conversion takes effect. If the other party to a transaction with the limited liability company reasonably believes when entering the transaction that the member undertaking the transaction is a partner in a partnership or a general partner in a limited partnership, the member shall be liable for an obligation incurred by the limited liability company within ninety (90) days after the conversion takes effect.

The partner's or general partner's liability for all other obligations of the limited liability company incurred after the conversion takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a conversion shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect.

SECTION 75. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A partnership or limited partnership that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) All property owned by the converting partnership or limited partnership shall remain vested in the converted business entity;

(b) All obligations of the converting partnership or limited partnership shall continue as obligations of the converted business entity; and

(c) An action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred.

SECTION 76. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the Constitution of this Commonwealth:

(a) The laws of the state or other jurisdiction under which a foreign limited liability company is organized shall govern its organization and internal affairs and the liability of its members, except as provided in subsection (2) of this section; and

(b) A foreign limited liability company shall not be denied registration by reason of any difference between the laws of another jurisdiction under which a foreign limited liability company is organized and the laws of this Commonwealth.

(2) A certificate of authority obtained pursuant to this chapter shall not authorize a foreign limited liability company to exercise any powers or engage in any business that a domestic limited liability company is forbidden to exercise or engage in by the laws of this Commonwealth.

SECTION 77. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company shall not transact business in this Commonwealth until it obtains a certificate of authority from the Secretary of State.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any action, suit, or proceeding;

(b) Holding meetings of its members or managers or carrying on other activities concerning its internal affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the limited liability company's securities, or maintaining trustees or depositories with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail, through employees or agents, or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;

(g) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; or

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section shall not be considered exhaustive. This section shall not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.

(4) The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210.

SECTION 78. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company transacting business in this Commonwealth without a certificate of authority shall not maintain an action, suit, or proceeding in any court in this Commonwealth until it obtains a certificate of

authority.

(2) The successor to a limited liability company that transacted business in this Commonwealth without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this Commonwealth until the foreign limited liability company or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign limited liability company, its successor, or assignee, until it determines whether the foreign limited liability company or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the limited liability company or its successor obtains the certificate of authority.

(4) A foreign limited liability company shall be liable for a civil penalty of two dollars ($2) for each day, but not to exceed a total of five hundred dollars ($500) for each year, it transacts business in this Commonwealth without a certificate of authority. The Attorney General may collect all penalties due under this subsection.

(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign limited liability company to obtain a certificate of authority shall not impair the validity of any contract or act of the foreign limited liability company or prevent it from defending any proceeding in this Commonwealth.

SECTION 79. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign limited liability company, or if its name is unavailable for use in this Commonwealth, a company name that satisfies the requirements of Section 82 of this Act;

(b) The name of the state or country under whose law it is organized;

(c) Its date of organization and, if the limited liability company has a specific date of dissolution, the latest date upon which it is to dissolve;

(d) The street address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company;

(e) The address of its registered office in this Commonwealth and the name of its registered agent at that office;

(f) The names and usual business addresses of its current managers, if any; and

(g) A statement that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation.

(2) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the certificate of authority.

SECTION 80. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes:

(a) Its company name;

(b) The latest date on which it is to dissolve; or

(c) The state or country of its organization.

(2) The requirements of Section 79 of this Act for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 81. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of authority shall authorize the foreign limited liability company to which it is issued to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the certificate as provided in this chapter.

(2) A foreign limited liability company with a valid certificate of authority shall have the same but no greater rights as, and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic limited liability company.

(3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs of a foreign limited liability company authorized to transact business in this Commonwealth.

SECTION 82. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If the name of a foreign limited liability company does not satisfy the requirements of Section 20 of this Act, the

foreign limited liability company, to obtain or maintain a certificate of authority to transact business in this Commonwealth:

(a) May add to its name for use in this Commonwealth:

1. The words "limited liability company," "limited company," "professional limited liability company," or "professional liability company." The word "limited" may be abbreviated as "Ltd" and the word "Company" may be abbreviated as "Co."; or

2. The abbreviations "LLC," "LC," "PLLC," or "PLC"; or

(b) May use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a person authorized to execute documents pursuant to subsection (6) of Section 9 of this Act that the limited liability company has adopted the fictitious name.

(2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign limited liability company shall be distinguishable from the name of any other business entity upon the records with the Secretary of State.

(3) A foreign limited liability company may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable upon his records from the name applied for. The Secretary of State shall authorize use of the name applied for if:

(a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or

(b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.

(4) A foreign limited liability company may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign limited liability company:

(a) Has merged with the other business entity;

(b) Has been formed by reorganization of the business entity; or

(c) Has acquired all or substantially all of the assets, including the name, of the other business entity.

(5) If a foreign limited liability company authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under Section 80 of this Act.

SECTION 83. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Each foreign limited liability company authorized to transact business in this Commonwealth shall continuously maintain in this Commonwealth:

(1) A registered office that may be the same as any of its places of business; and

(2) A registered agent, who may be:

(a) An individual who resides in this Commonwealth and whose business office is identical with the registered office;

(b) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office;

(c) A foreign corporation or foreign not-for-profit corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office; or

(d) A domestic limited liability company or a foreign limited liability company authorized to transact business in this Commonwealth whose business address is identical with the registered office.

(3) The registered agent shall execute and deliver to the Secretary of State a document accepting the agency appointment, and the appointment of the agent shall not be effective until delivered to the Secretary of State.

SECTION 84. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company authorized to transact business in this Commonwealth may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

(a) Its name;

(b) The street address of its current registered office;

(c) If the current registered office is to be changed, the street address of its new registered office;

(d) The name of its current registered agent;

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of its business office, the agent shall change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the Secretary of State for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the limited liability company has been notified of the change.

SECTION 85. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign limited liability company may resign its agency appointment by signing and delivering to the Secretary of State for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(2) After filing the statement, the Secretary of State shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The Secretary of State shall mail the other copy to the foreign limited liability company at its principal office address shown in its most recent annual report.

(3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed. A foreign limited liability company that fails to maintain a registered agent in this Commonwealth shall be subject to revocation of its certificate of authority under Section 88 of this Act.

SECTION 86. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) The registered agent of a foreign limited liability company authorized to transact business in this Commonwealth shall be the company's agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company.

(2) A foreign limited liability company may be served by registered or certified mail, return receipt requested, addressed to the appropriate representative of the foreign limited liability company at its principal office shown in its application for a certificate of authority or in its most recent annual report, if the foreign limited liability company:

(a) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(b) Has withdrawn from transacting business in this Commonwealth under Section 87 of this Act; or

(c) Has had its certificate of authority revoked under Section 89 of this Act.

(3) Service is perfected under subsection (2) of this section at the earliest of:

(a) The date the foreign limited liability company receives service by mail;

(b) The date shown on the return receipt, if signed on behalf of the foreign limited liability company; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(4) This section shall not prescribe the only means, or necessarily the required means, of serving a foreign limited liability company.

SECTION 87. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company authorized to transact business in this Commonwealth shall not withdraw from this Commonwealth until it obtains a certificate of withdrawal from the Secretary of State.

(2) A foreign limited liability company authorized to transact business in this Commonwealth may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign limited liability company and the name of the state or country under whose law it is organized;

(b) A statement that it is not transacting business in this Commonwealth and that it surrenders its authority to transact business in this Commonwealth;

(c) A statement that it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this Commonwealth;

(d) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under subsection (2) or (3) of this section; and

(e) A commitment to notify the Secretary of State in the future of any change in its mailing address.

(3) After the withdrawal of the limited liability company is effective, service of process on the Secretary of State under this section shall be service on the foreign limited liability company. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign limited liability company at the mailing address set forth under subsection (2) of this section.

SECTION 88. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

The Secretary of State may commence a proceeding under Section 89 of this Act to revoke the certificate of authority of a foreign limited liability company authorized to transact business in this Commonwealth if:

(1) The foreign limited liability company does not file its annual report to the Secretary of State within sixty (60) days after it is due;

(2) The foreign limited liability company is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;

(3) The foreign limited liability company does not inform the Secretary of State under Sections 84 and 85 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance;

(4) A member or manager of the limited liability company or person organizing the foreign limited liability company signed a document the member, manager, or person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or

(5) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of limited liability company records in the state or country under whose law the foreign limited liability company is organized stating that it has been dissolved or disappeared as the result of a merger or other event.

SECTION 89. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) If the Secretary of State determines that one (1) or more grounds exist under Section 88 of this Act for revocation of a certificate of authority, the Secretary of State shall serve the foreign limited liability company with written notice of its determination by mailing the notice by first class mail to the foreign limited liability company at its registered office.

(2) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days after the mailing of the notice, the Secretary of State shall revoke the foreign limited liability company's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy to the foreign limited liability company by mailing notice by first class mail to the foreign limited liability company at its registered office.

(3) The authority of a foreign limited liability company to transact business in this Commonwealth shall cease on the date shown on the certificate of revocation.

(4) The Secretary of State's revocation of a foreign limited liability company's certificate of authority shall have the effect of appointing the Secretary of State as the foreign limited liability company's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability company was authorized to transact business in this Commonwealth. Service of process on the Secretary of State under this subsection shall be service on the foreign limited liability company. Upon receipt of process, the Secretary of State shall mail a copy of the process to the appropriate representative of the foreign limited liability company at its principal office as shown in its most recent annual report or in any subsequent communication received from the foreign limited liability company stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.

(5) Revocation of a foreign limited liability company's certificate of authority shall not terminate the authority of the registered agent of the foreign limited liability company.

SECTION 90. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

(1) A foreign limited liability company may appeal the Secretary of State's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after the service of certificate of revocation. The foreign limited liability company may petition the court to set aside the revocation by attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.

(2) The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

SECTION 91. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A limited liability company organized and existing under this chapter may conduct its business, carry on its operations, and

have and exercise the powers granted by this chapter in any state or foreign country.

SECTION 92. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

It shall be the policy of the General Assembly through this chapter to give maximum effect to the principles of freedom of contract and the enforceability of operating agreements. Unless displaced by particular provisions of this chapter, the principles of law and equity shall supplement this chapter. Although this chapter is in derogation of common law, the rules of construction that require strict construction of statutes which are in derogation of common law shall not apply to its provisions. This chapter shall not be construed to impair the obligations of any contract existing when this chapter, or any amendment of it, becomes effective, nor to affect any action or proceeding begun or right accrued before the chapter or amendment takes effect.

SECTION 93. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

This chapter shall be known and may be cited as the "Kentucky Limited Liability Company Act."

Section 94. KRS 362.155 is amended to read as follows:

In KRS 362.150 to 362.360***:***

(1) "Court" includes every court and judge having jurisdiction in the case.

(2) "Business" includes every trade, occupation, or profession.

(3) "Person" includes individuals, partnerships, corporations, and other associations.

(4) "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

(5) "Conveyance" includes every assignment, lease, ***mortgage*** [~~mortgages~~], or encumbrance.

(6) "Real Property" includes land and any interest or estate in land.

(7) "Registered limited liability partnership" includes a partnership formed pursuant to an agreement governed by the laws of this Commonwealth or a state or jurisdiction registered under Section 102 of this Act and complying with Section 103 of this Act.

Section 95. KRS 362.175 is amended to read as follows:

(1) A partnership is an association of two (2) or more persons to carry on as co-owners a business for profit ***and includes, for all purposes of the laws of this Commonwealth, a registered limited liability partnership***.

(2) But any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under KRS 362.150 to 362.360, unless such association would have been a partnership in this state prior to the adoption of KRS 362.150 to 362.360; but KRS 362.150 to 362.360 shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith.

Section 96. KRS 362.190 is amended to read as follows:

(1) ***Subject to the limitations set forth in KRS 362.220(2),*** every partner ***shall be*** [~~is~~] an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member ***shall bind*** [~~binds~~] the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no [~~such~~] authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way ***shall*** [~~does~~] not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one (1) or more but less than all the partners ***shall*** have no authority to:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;
- (b) Dispose of the goodwill of the business;
- (c) Do any other act which would make it impossible to carry on the ordinary business of a partnership;
- (d) Confess a judgment;
- (e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

Section 97. KRS 362.220 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, all partners ***shall be*** [~~are~~] liable:

(a)[~~(1)~~] Jointly and severally for everything chargeable to the partnership under KRS 362.210 and 362.215***; and***[~~.~~]

(b)[~~(2)~~] Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(2) Subject to subsection (3) of this section and subject to any agreement among the partners, a partner in a registered limited liability partnership shall not be liable directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for debts, obligations, and liabilities of or chargeable to the partnership, whether arising in tort, contract, or otherwise, arising from negligence, malpractice, wrongful acts, or misconduct committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(3) Subsection (2) of this section shall not affect the liability of a partner in a registered limited liability partnership for his own negligence, wrongful acts, or misconduct.

Section 98. KRS 362.235 is amended to read as follows:

The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property, and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and***,*** ***except as provided in KRS 362.220(2), each partner shall*** [~~must~~] contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) ***Except as provided in KRS 362.220(2),*** the partnership ***shall*** [~~must~~] indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner ***shall be*** [~~is~~] entitled to remuneration for acting in the partnership business, except that a surviving partner ***shall be*** [~~is~~] entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person ***shall*** [~~can~~] become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners ***shall*** [~~may~~] be done rightfully without the consent of all the partners.

Section 99. KRS 362.315 is amended to read as follows:

Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner, acting for the partnership had knowledge of the dissolution***;*** [~~, or~~]

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy***; or***

(3) The liability arises from a debt, obligation, or liability for which the partner is not liable as provided in KRS 362.220(2).

Section 100. KRS 362.325 is amended to read as follows:

(1) The dissolution of the partnership ***shall*** [~~does~~] not of itself discharge the existing liability of any partner.

(2) A partner ***shall be*** [~~is~~] discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor***,*** and the person or partnership continuing the business; and ***the*** [~~such~~] agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) ***If*** [~~Where~~] a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of ***the*** [~~such~~] obligations.

(4) The individual property of a deceased partner shall be liable for [~~all~~] obligations of the partnership incurred while he was a partner ***and for which he was liable under KRS 362.220*** but subject to the prior payment of his separate debts.

Section 101. KRS 362.345 is amended to read as follows:

In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property,

(b) The contributions of the partners [~~necessary for the payment of all the liabilities~~] specified in subsection ***(4)*** [~~(2)~~] of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners,

(b) Those owing to partners other than for capital and profits,

(c) Those owing to partners in respect of capital,

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subsection (1) of this section to the satisfaction of the liabilities.

(4) ***Except as provided in KRS 362.220 (2):***

(a) The partners shall contribute, as provided by subsection (1) of KRS 362.235 the amount necessary to satisfy the liabilities; ***and***

(b) [~~but~~] If any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in subsection (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subsection (4) of this section, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subsection (4) of this section.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) ***If*** [~~Where~~] a partner has become bankrupt or his estate is insolvent***,*** the claims against his separate property shall rank in the following order:

(a) Those owing to separate creditors,

(b) Those owing to partnership creditors,

(c) Those owing to partners by way of contribution.

SECTION 102. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) To become and to continue as a registered limited liability partnership, a partnership shall file with the Secretary of State a statement or a renewal statement, as the case may be, stating the name of the partnership; the address of its principal office, if the partnership's principal office is not located in this state; the number of partners; a brief statement of the business in which the partnership engages; and that the partnership registers its status or renews its status, as the case may be, as a registered limited liability partnership.

(2) The statement or renewal statement shall be executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a statement or renewal statement.

(3) The statement or renewal statement shall be accompanied by a fee of two hundred dollars ($200).

(4) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed statement or renewal statement with the required fee.

(5) Registration shall be effective for one (1) year after the date a statement is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original statement or a renewal statement, as a registered limited liability partnership shall be renewed if, during the sixty (60) day period preceding the date the statement or renewal statement otherwise would have expired, the partnership files with the Secretary of State a renewal statement. Registration pursuant to a renewal statement shall expire one (1) year after the date the registration would have expired if the last renewal of the registration had not occurred.

(6) The status of a partnership as a registered limited liability partnership shall not be affected by changes made in the information stated in the statement or renewal statement after the filing of the statement or renewal statement.

(7) The Secretary of State may provide forms for use under this section.

SECTION 103. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or the abbreviation "LLP" as the last words or letters of its name.

(2) The name shall not be the same as and shall be distinguishable upon the records of the Secretary of State from:

(a) The name of any corporation, limited partnership, limited liability company, or registered limited liability partnership organized under the laws of this Commonwealth or authorized or registered as a foreign corporation, foreign limited partnership, foreign limited liability company, foreign registered limited liability partnership in this Commonwealth, or the name of any nonprofit corporation, fictitious name adopted for use by a foreign corporation, or assumed name; or

(b) A name which is reserved or registered by another person under the laws of this Commonwealth.

SECTION 104. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) A registered limited liability partnership, formed and existing under Sections 94 to 107 of this Act, may conduct its business, carry on its operations, and have and exercise the powers granted by Sections 94 to 107 of this Act in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the General Assembly that the legal existence of any registered limited liability partnership formed and existing under Sections 94 to 107 of this Act shall be recognized outside the boundaries of this Commonwealth, and that the laws of this Commonwealth governing any registered limited liability partnership transacting business outside this Commonwealth shall be granted the protection of full faith and credit under the Constitution of the United States.

(3) It is the policy of this Commonwealth that the internal affairs of registered limited liability partnerships, formed and existing under Sections 94 to 107 of this Act, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this Commonwealth.

(4) Subject to any statutes for the regulation and control of specific types of business and subject to Section 105 of this Act, limited liability partnerships, formed and existing under the laws of another state or jurisdiction, may engage in any business in this Commonwealth.

(5) It is the policy of this Commonwealth that the internal affairs of partnerships, including limited liability partnerships, formed and existing under the laws of another state or jurisdiction, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of that other state or jurisdiction.

SECTION 105. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Before transacting business in this Commonwealth, a foreign limited liability partnership shall register with the Secretary of State. In order to register and maintain registration, a foreign limited liability partnership shall submit a statement and renew the statement in the same manner as is required under Section 102 of this Act in the case of a domestic registered limited liability partnership. The registration shall be governed by Section 102 of this Act as if the foreign limited liability partnership were a domestic registered limited liability partnership.

(2) A foreign limited liability partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that includes the words "Registered Limited Liability Partnership" or its abbreviation "LLP" and that could be used by a domestic registered limited liability partnership in accordance with Section 103 of this Act.

(3) The voluntary withdrawal of a statement pursuant to subsection (5) of Section 102 of this Act shall not terminate the authority of the Secretary of State to accept service of process on the foreign registered limited liability partnership with respect to causes of action arising out of the transaction of business in this Commonwealth.

(4) The Attorney General may bring an action to enjoin a foreign limited liability partnership from transacting business in this Commonwealth if any requirements of Section 102 of this Act have not been met.

SECTION 106. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) The failure of a registered limited liability partnership to comply with any requirements of Section 102 of this Act shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the registered limited liability partnership or prevent the registered limited liability partnership from defending any action, suit, or proceeding in any court of this Commonwealth.

(2) Subject to subsection (3) of this section, the protection from liability of a partner of a registered limited liability partnership under KRS 362.220(2) shall not be altered by reason of the failure of the partnership to comply with any requirements of Section 102 of this Act.

(3) A partner in a partnership which has previously filed a statement under Section 102 of this Act, and which has failed to comply with the renewal statement requirements of Section 102 of this Act, shall not be entitled to protection from liability under KRS 362.220(2) in any action or proceeding brought by any person who did business with the

partnership during the period it failed to comply and who did not at that time have actual knowledge that it was a limited liability partnership.

(4) A foreign limited liability partnership, by transacting business in this Commonwealth, shall be deemed to appoint the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this Commonwealth.

SECTION 107. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

A partnership may sue or be sued in its common name. A judgment by or against a partnership shall bind the partnership as if it were a legal entity. A judgment against a partnership shall not bind a partner in his individual capacity except to the extent permitted by KRS 362.220.

SECTION 108. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a trust fund in the Treasury of the Commonwealth for use by the Secretary of State. The Secretary of State shall use the trust fund solely to establish, operate, and maintain procedures required by KRS Chapter 275 and Sections 102 to 107 of this Act. The Secretary of State may request, and the request shall be honored, that the funds be invested and reinvested to establish, operate, and maintain procedures required by KRS Chapter 275 and Sections 102 to 107 of this Act.

(2) The trust fund shall be credited with fees generated pursuant to Section 11 of this Act and subsection (3) of Section 102 of this Act as well as income from the investment and reinvestment of funds in the trust fund.

(3) The provisions of this section shall expire two (2) years from the effective date of this Act. At that time, funds remaining in the trust fund shall revert to the general fund.

SECTION 109. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "limited liability company" shall mean any company subject to the provisions of KRS Chapter 275.

(2) Any limited liability company which is treated as a partnership for federal income tax purposes shall be treated as a partnership in accordance with the provisions of KRS 141.206 for Kentucky income tax purposes.

(3) Any limited liability company which is treated as a corporation for federal income tax purposes shall be treated as a corporation in accordance with the provisions of KRS 141.040 for Kentucky income tax purposes.

Section 110. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, ***registered limited liability partnerships,*** ~~[and]~~ joint stock companies***, and limited liability companies***;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions, and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year; and

(38) "City" includes town.

SECTION 111. A NEW SECTION OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more domestic or foreign limited liability companies or limited partnerships may merge with one (1) more domestic corporations if:

(a) The merger is permitted by the laws of the state or country under whose law each foreign limited liability company or limited partnership is incorporated, organized, or formed, and each foreign limited liability company or limited partnership complies with those laws in effecting the merger;

(b) Each domestic limited liability company party to the merger complies with the applicable provisions of the Kentucky Revised Statutes

(c) Each domestic limited partnership party to the merger complies with the applicable provisions of KRS Chapter 362;

(d) Each domestic corporation complies with the applicable provisions of KRS 271B.11-010 to 271B.11-040.

(2) The plan of merger shall set forth:

(a) The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;

(b) The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth

whether limited liability is retained by the surviving business entity;

(c) The manner and basis of converting the shares in each corporation and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;

(d) The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired;

(e) Other provisions relating to the proposed merger that are deemed necessary or desirable.

(3) The business entity surviving from the merger shall deliver to the Secretary of State for filing articles of merger duly executed by each constituent business entity setting forth:

(a) The name and jurisdiction of formation or organization of each constituent business entity which is to merge;

(b) The plan of merger;

(c) The name of the surviving business entity;

(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and

(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceeding. The surviving entity shall specify the address to which a copy of the process shall be mailed to it by the Secretary of State.

(4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable sections of the Kentucky Revised Statutes and for any domestic limited partnership party to the merger in accordance with KRS Chapter 362.

(5) Upon merger taking effect, if the surviving entity in the merger is a foreign limited partnership, limited liability company, or corporation, the surviving entity shall be deemed:

(a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger;

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS Chapter 271B; and

(c) To agree, to the extent required by Section 200 of the Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise, as if the transaction has not taken place.

(6) If a domestic or foreign limited liability company or limited partnership is the surviving entity of a merger, the surviving domestic or foreign limited liability company or limited partnership shall be considered a surviving corporation for purposes of subsection (1) of KRS 271B.11-060.

SECTION 112. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more domestic limited partnerships may merge pursuant to a written plan of merger described in subsection (2) of this section with one (1) or more domestic or foreign limited partnerships, limited liability companies, or corporations if:

(a) The merger is not prohibited by the partnership agreement of any domestic limited partnership that is a party to the merger, and each domestic limited partnership that is a party to the merger, approves the plan of merger in accordance with this chapter and complies with the applicable terms of its partnership agreement in effecting the merger;

(b) Each domestic limited liability company, as a party to the merger, complies with the applicable merger provisions of the Kentucky Revised Statutes;

(c) Each domestic corporation, as a party to the merger, complies with the applicable merger provisions of KRS Chapter 271B;

(d) The merger is permitted by the laws of the state or country under which each foreign limited partnership, foreign limited liability company, or foreign corporation party to the merger is formed, organized, or incorporated, and each foreign limited partnership, limited liability company, or corporation complies with those laws in effecting the merger; and

(2) The written plan of merger shall set forth:

(a) The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;

(b) The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth whether limited liability is retained by the surviving business entity;

(c) The manner and basis of converting the partnership interests in each limited partnership and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;

(d) The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired;

(e) Other provisions relating to the proposed merger that are deemed necessary or desirable.

SECTION 113. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic limited partnership that is to be a party to a proposed merger shall approve the proposed merger, unless the partnership agreement of that limited partnership provides otherwise, by the unanimous vote of the partners of the partnership.

(2) A plan of merger may provide for the manner, if any, in which the plan may be amended at any time before the filing of the articles of merger with the Secretary of State.

(3) Unless the domestic limited partnership's partnership agreement or the plan of merger, once authorized, provides otherwise, the merger may be abandoned at any time before the filing of the articles of merger with the Secretary of State by the affirmative vote of all partners of the domestic limited partnership (subject to any contractual rights) in accordance with the procedure set forth in the plan of merger, if any.

SECTION 114. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

(1) After a plan of merger is approved by each domestic or foreign limited partnership, limited liability company, or corporation that is a party to the merger, the surviving domestic or foreign limited partnership, limited liability company, or corporation shall deliver to the Secretary of State for filing articles of merger duly executed by each party to the merger setting forth:

(a) The name of jurisdiction of formation or organization of each constituent business entity which is to merge;

(b) The plan of merger;

(c) The name of the surviving business entity;

(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and

(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceedings. The surviving entity shall specify the address to which a copy of process shall be mailed to it by the Secretary of State.

(2) The merger shall take effect on the later of the date of the filing of the articles of merger or the date set forth in the articles of merger, in which case it shall not be later than ninety (90) days after the date on which the articles of merger were filed.

(3) Upon the merger taking effect, if the surviving entity in the merger is a foreign limited partnership or limited liability company, the entity shall be deemed:

(a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or rights of dissenting shareholders of each domestic corporation party to the merger;

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the

merger the amount, if any, to which they are entitled under Subtitle 13 of KRS 271B.; and

(c) To agree, to the extent required by Section 200 of the Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise as if the transaction had not taken place.

(4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable provisions of the Kentucky Revised Statutes and for any domestic corporation party to the merger in accordance with KRS Chapter 271B.

(5) The filing of articles of merger shall act as a certificate of cancellation as described in KRS 362.419 for a domestic limited partnership that is not the surviving entity of the merger and that partnership's certificate of limited partnership shall be canceled upon the effective date of the articles of merger.

(6) The Secretary of State shall receive a fee of fifty dollars ($50) for the filing of each articles of merger.

SECTION 115. A NEW SECTION OF KRS CHAPTER 362 IS CREATED TO READ AS FOLLOWS:

When a merger takes effect:

(1) The separate existence of every domestic limited partnership that is a party to the merger except the surviving domestic limited partnership, if any, shall cease;

(2) The title to all real estate and other property owned by each domestic limited partnership that is a party to the merger shall be vested in the surviving entity without reversion or impairment;

(3) The surviving entity shall be responsible for all liabilities of each domestic limited partnership that is a party to the merger;

(4) A proceeding pending by or against any domestic limited partnership party to the merger may be continued as if the merger had not occurred, or the surviving entity may be substituted in the proceeding for the domestic limited partnership whose existence ceased;

(5) If a domestic limited partnership is the surviving entity of the merger, the certificate of limited partnership and partnership agreement of that limited partnership shall be amended to the extent provided in the plan of merger; and

(6) The partnership interests of every domestic limited partnership that is a party to the merger that are to be converted into partnership interests, membership interests, shares or other securities or obligations of the surviving limited partnership, limited liability company or corporation or into cash or other property, in whole or in part, shall be so converted and the former holders of such partnership interests shall be entitled only to the rights provided in the plan of merger.

Section 116. KRS 362.409 is amended to read as follows:

(1) Each limited partnership shall keep, at the office referred to in KRS *362.407(1)* [~~362.405(1)~~], the following records:

(a) A current list of the full names and last known business, residence*,* or mailing addresses of all partners, separately identifying in alphabetical order the general partners and the limited partners;

(b) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate was executed;

(c) Copies of the limited partnership's federal, state and local income tax returns and reports, if any, for the three (3) most recent years;

(d) Copies of any then effective written partnership agreement and of any financial statements of the limited partnership for the three (3) most recent years; and

(e) Unless contained in a written partnership agreement, a writing setting out:

1. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

2. The times at which, or events upon the happening of which, any additional contributions agreed to be made by each partner are to be made;

3. Any right of a partner to receive distributions, or of a general partner to make distributions to a partner, that includes a return of all or any part of the partner's contribution; and

4. Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

(2) Records kept under this section may be inspected and copied during ordinary business hours at the reasonable request, and at the expense, of any partner.

Section 117. KRS 362.417 is amended to read as follows:

(1) A certificate of limited partnership may be amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall be in the form prescribed by the Secretary of State and shall set forth:

(a) The name of the limited partnership;

(b) The date of filing the certificate of limited partnership; and

(c) The amendment to the certificate of limited partnership.

(2) (a) Within thirty (30) days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events, shall be filed:

1. The admission of a new general partner;

2. The withdrawal of a general partner;

3. The continuation of the business under KRS 362.487 after an event of withdrawal of a general partner;

4. A change in name of the limited partnership; or

5. A change in the address of the office or the name or address of the agent for service of process required to be maintained by KRS ***362.407*** ~~[362.405]~~.

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made, or that any arrangements or other facts described in the certificate have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

(c) A certificate may be amended at any time for any other proper purpose the general partners determine.

(3) If an amendment to a certificate is filed within the thirty (30) day period referred to in subsection (2) of this section, no person shall be liable because the amendment was not filed earlier.

(4) Unless otherwise provided in KRS 362.403 to 362.525 or in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the Secretary of State.

(5) A limited partnership may, if desired, integrate into a single instrument all of the provisions of its certificate of limited partnership which are then in effect and operative as a result of filing with the Secretary of State one (1) or more certificates of amendment and it may, at the same time, further amend its certificate of limited partnership.

(6) If the restated certificate of limited partnership merely restates and integrates, but does not further amend the certificate of limited partnership as theretofore amended, it shall be specifically designated in its heading as a "restated certificate of limited partnership." If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership as theretofore amended, it shall be specifically designated in its heading as an "amended and restated certificate of limited partnership". A restated, or amended and restated, certificate of limited partnership shall be executed and filed in the same manner as a certificate of amendment.

(7) Upon the filing of a restated, or amended and restated, certificate of limited partnership with the Secretary of State, or upon its future effective date or time as provided for therein, the initial certificate of limited partnership, as amended, shall be superseded. Thereafter, the restated certificate of limited partnership, including further amendments made thereto, shall be the certificate of limited partnership of the limited partnership.

Section 118. KRS 362.497 is amended to read as follows:

(1) Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State one (1) original and one (1) exact or conformed copy of an application for registration as a foreign limited partnership, in the form prescribed by the Secretary of State, signed by a general partner and setting forth:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state:

(b) The state and date of its formation;

(c) The name and address of any agent for service of process on the foreign limited partnership. The agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process~~[.]~~ if the appointed agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;

(e) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

(f) The name and the business address of each general partner; and

(g) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

(2) The execution by a general partner of an application for registration as a foreign limited partnership, the execution of a certificate amending the application pursuant to KRS 362.503 and the execution of a certificate of cancellation pursuant to KRS 362.505 shall constitute an affirmation under the penalties of perjury that the facts stated there are true.

Section 119. KRS 362.507 is amended to read as follows:

(1) ***A foreign limited partnership transacting business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.***

(2) The failure of a foreign limited partnership to register in this state shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(3)[~~(2)~~] A limited partner of a foreign limited partnership shall not be liable as a general partner of the foreign limited partnership solely by reason of the partnership's having transacted business in this state without registration.

(4)[~~(3)~~] A foreign limited partnership, by transacting business in this state without registration, shall appoint the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

SB 186, AN ACT relating to the unified prosecutorial system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.725 is amended to read as follows:

(1) The Commonwealth's attorney shall attend each Circuit Court held in his judicial circuit. He shall, except as provided in KRS 15.715 and KRS Chapter 131, have the duty to prosecute all violations of the criminal and penal laws which are to be tried in the Circuit Court in his judicial circuit. In addition, he shall have the primary responsibility within his judicial circuit to present evidence to the grand jury concerning such violations.

(2) The county attorney shall attend the District Court in his county and prosecute all violations of criminal and penal laws, except as provided in KRS Chapter 131, within the jurisdiction of said District Court.

(3) The Commonwealth's attorney and county attorneys in a judicial circuit shall cooperate in the enforcement of criminal and penal laws of the Commonwealth. When necessary, the Commonwealth's attorney and county attorney shall assist each other in prosecution within their respective courts. ***Each Commonwealth's attorney and county attorney may enter into agreements to share or redistribute prosecutorial duties in the Circuit and District Courts. Any prosecutorial or related duty assigned by statute to the Commonwealth's attorney may be performed by the county attorney, and any prosecutorial or related duty assigned by statute to the county attorney may be performed by the Commonwealth's attorney pursuant to these agreements. Copies of the agreements shall when executed be forwarded to the Attorney General, the chief judges of the Circuit and District Courts, and the chief regional judges of the Circuit and District Courts.***

(4) The Prosecutors Advisory Council shall in allocating resources between the Commonwealth's and county attorney take the agreements into account.

(5)[~~(4)~~] In the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may issue criminal warrants prepared by the Commonwealth's attorney or county attorney, who shall certify that there is no district judge, circuit judge, or trial commissioner within the county.

The Committee on Labor and Industry reported **HB 735,** with Committee Amendments attached thereto, **HR 76, SB 258, SB 267, SB 271,** with Committee Substitute attached thereto, and **SB 280** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 735, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of workplace standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) ***"Contract and temporary workers" means those employees who work fewer than thirty (30) hours per week for fewer than twelve (12) weeks in a calendar year for the same employer.***

(c) "Department" means Department of Workplace Standards in the Labor Cabinet;

(d)[~~(c)~~]"Wages" include any compensation due to an employee by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(e)[~~(d)~~]"Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employee and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(f)[~~(e)~~] "Employee" is any person employed by or suffered or permitted to work for an employer.

(g) "Employer of record" means the employer obligated by law to pay or provide Social Security, unemployment insurance, and workers' compensation insurance coverage to his employees.

(h) "Fringe benefits" means any portions of the formal or informal work contract between employer and employee that may be offered by the employer at his discretion, including, but not limited to, health and disability insurance, retirement plans, educational assistance, vacation and sick leave, and life insurance.

(i) "Full-time employee" means any employee who works thirty (30) hours or more per week for more than twelve (12) weeks at the same job with the same employer in a calendar year.

(2) As used in KRS 337.275 to 337.325, 337.345 and 337.385 to 337.405 unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner of workplace standards showing a status of learner, apprentice, handicapped worker, sheltered workshop employee, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of workplace standards. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employees; or

10. Any employee employed by an establishment which is an organized nonprofit camp, religious or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the United States Department of Labor, Bureau of Labor Statistics;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work except for buildings constructed as institutions of learning constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) Every employer, with respect to provision of fringe benefits to employees, shall treat full-time employees and contract and temporary workers in an equitable manner. To that end, employers shall:

(a) Award fringe benefits to contract and temporary workers on a pro-rata basis to those granted full-time employees, based upon the number of hours these employees work compared to full-time employees; and

(b) Award the same array of fringe benefits to contract and temporary workers as are granted full-time employees;

(2) If the employer of record is a temporary help services business, employee leasing company, or similar enterprise which places its own employees in temporary work with various client firms in return for a fee, then that employer shall also comply with this section.

(3) Any employer who violates subsection (1) of this section shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

The Committee Amendment No. 1 to **HB 735** is as follows:

On page 2, line 7, delete the phrase "*at the same job*"

The Committee Amendment No. 2 to **HB 735** is as follows:

On page 1, delete lines 5 through 7 in their entirety; and

on page 1, line 8, delete "*(c)*" and insert in its place "(b)"; and

on page 1, line 10, delete "*(d)*" and remove the brackets and strikethroughs around "(c)"; and on page 1, line 17, delete "***(e)***" and remove the brackets and strikethroughs around "(d)"; and

on page 1, line 21, delete "***(f)***" and remove the brackets and strikethroughs around "(e)"; and

on page 1, line 23, delete "***(g)***" and insert "***(f)***"; and

on page 2, line 1, delete "***(h)***" and insert "***(g)***"; and

one page 2, line 6, delete "***(i)***" and insert "***(h)***"; and

on page 6, line 6, delete the words, "***and contract and temporary workers***"; and

on page 6, line 7, by removing the colon "***:***"; and

on page 6, line 8, delete "***(a)***" and change the "***A***" in "***Award***" to lower case, and delete, on line 8, the words, "***to contract and temporary workers***"; and

on page 6, line 9, delete the word "***granted***"; and

on page 6, line 10, insert a period after the word "***work***"; and

delete the remainder of line 10 after "***work.***"; and delete lines 11 and 12 in their entirety.

HR 76, A RESOLUTION relating to the contracting out of union jobs by state-funded employers.

WHEREAS, the Transit Authority of River City, Louisville's Public Mass Transportation agency, has experienced much negative publicity and suffered the economic consequences of alleged poor management practices; and

WHEREAS, in response to this situation, a recently released long-range cost plan for Transit Authority of River City has recommended contracting out of certain jobs currently performed by union workers; and

WHEREAS, as an agency which depends to large degree upon federal and state funding in order to operate, any contracting out to private contractors as a means to enhance profits is greatly at odds with the Transit Authority of River City's mission and intent as a public entity;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby support legislation to set strict standards for state-funded agencies seeking to contract out union jobs to private contractors.

Section 2. The legislation should provide that any contract workers hired to perform union jobs at state-funded agencies or organizations must receive wages and benefits at prevailing levels or at union scale as a disincentive to contract out and thereby exploit workers and prevailing wage laws.

Section 3. The legislation should further provide that violation of these provisions will result in state sanctions including but not limited to cessation of state funding to the entity in violation.

SB 258, AN ACT relating to public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Any state contract awarded under KRS Chapter 45A, 175, 176, 177, or 180 after the effective date of this section shall require the contractor to:

(a) Reveal any final determination of a violation by the contractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the contractor; and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the contractor for the duration of the contract.

(2) A contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 or to comply with these statutes for the duration of the contract shall be grounds for the Commonwealth's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future state contracts for a period of two (2) years.

Section 2. KRS 45A.343 is amended to read as follows:

(1) Any local public agency may adopt the provisions of KRS 45A.345 through 45A.460. No other statutes governing purchasing shall apply to a local public agency upon adoption of these provisions.

(2) After the effective date of this section, any contract entered into by a local public agency, whether under KRS 45A.345 through 45A.460 or any other authority, shall require the contractor to:

(a) Reveal any final determination of a violation by the contractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the contractor; and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the contractor for the duration of the contract.

(3) A contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future contracts awarded by the local public agency for a period of two (2) years.

Section 3. KRS 45A.345 is amended to read as follows:

As used in KRS *45A.343* [~~45A.345~~] to 45A.460, unless the context indicates otherwise:

(1) "Aggregate amount" shall mean the total dollar amount during a fiscal year of items of a like nature, function, and use the need for which can reasonably be determined at the beginning of the fiscal year. Items the need for which could not reasonably be established in advance or which were unavailable because of a failure of delivery need not be included in the aggregate amount.

(2) "Chief executive officer" shall mean the mayor, county judge/executive, superintendent of schools, or the principal administrative officer of a local public agency, or the person designated by the chief executive officer or legislative body of the local public agency to perform the procurement function.

(3) "Construction" shall mean the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(4) "Contract" shall mean all types of local public agency agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing. It does not include labor contracts with employees of local public agencies.

(5) "Established catalogue price" shall mean the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(6) "Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, residual value, and time of delivery, performance, or completion.

(7) "Invitation for bids" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.365.

(8) "The legislative body or governing board" shall mean a council, commission or other legislative body of a city or urban county; a county fiscal court; board of education of a county or independent school district; board of directors of an area development district or special district; or board of any other local public agency.

(9) "Local public agency" shall mean a city, county, urban-county, school district, special district, or an agency formed by a combination of such agencies under KRS Chapter 79, or any department, board, commission, authority, office or other sub-unit of a political subdivision which shall include the offices of the county clerk, county sheriff, county attorney, coroner and jailer.

(10) "May" shall mean permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(11) "Negotiation" shall mean contracting by either the method set forth in KRS 45A.370, 45A.375 or 45A.380.

(12) "Noncompetitive negotiation" shall mean informal negotiation with one (1) or more vendor, contractor, or individual without advertisement or notice.

(13) "Objective measurable criteria" shall mean sufficient information in the invitation to bid as to weight and method of evaluation so that the evaluation may be determined with reasonable mathematical certainty. Criteria which are otherwise subjective such as taste and appearance may be established when appropriate.

(14) "Person" shall mean any business, individual, union, committee, club, or other organization or group of individuals.

(15) "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any public procurement, including description

of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(16) "Request for proposals" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.370, 45A.375, 45A.380 or 45A.385.

(17) "Responsible bidder or offeror" shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(18) "Responsive bidder" shall mean a person who has submitted a bid under KRS 45A.365 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(19) "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product other than reports which are merely incidental to the required performance of service. It does not include labor contracts with employees of local public agencies.

(20) "Shall" shall mean imperative.

(21) "Specifications" shall mean any description of a physical or functional characteristic of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

(22) "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

(23) "Supplies" shall mean all property, including but not limited to leases on real property, printing and insurance, except land or a permanent interest in land.

SB 267, AN ACT relating to plumbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.040 is amended to read as follows:

(1) An applicant for a master or journeyman plumber's license shall:

  (a) Be at least eighteen (18) years of age;

  (b) Be of good moral character;

  (c) Be a citizen of the United States or ***be a resident alien who is authorized to work in the United States*** ~~[have filed with the United States District Court "first papers" for United States citizenship]~~; and

  (d) Possess all the other qualifications that may be prescribed by administrative regulations of the commissioner.

(2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.

(3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at times and places fixed by the regulations of the commissioner. Applicants for an examination shall furnish the information required by the commissioner and shall receive from the department due notice of the time and place of the examination.

(4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests by which the department will determine:

  (a) With respect to master plumber's license applicants, that applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and

  (b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.

(5) The examination papers shall be preserved by the department for a period of one (1) year.

(6) The department may issue a license to any person who holds a valid license in another state if that state has a statewide plumbing code and, in the opinion of the Plumbing Code Committee, the other state's examination is at least equal to that of Kentucky and the other state agrees to reciprocate with Kentucky.

SB 271, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

  (a) "Commissioner" means commissioner of workplace standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employee and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345 and 337.385 to 337.405 unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner of workplace standards showing a status of learner, apprentice, handicapped worker, sheltered workshop employee, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of workplace standards. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or ~~[live-in]~~ companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employees; or

10. Any employee employed by an establishment which is an organized nonprofit camp, religious or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the United States Department of Labor, Bureau of Labor Statistics;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work except for buildings constructed as institutions of learning constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

The Committee Substitute to **SB 271** is as follows:

SB 271, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of workplace standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employee and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345 and 337.385 to 337.405 unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner of workplace standards showing a status of learner, apprentice, handicapped worker, sheltered workshop employee, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of workplace standards. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or ***an individual employed as a*** ~~[live-in]~~ companion ***by*** ~~[to]~~ a sick, convalescing***,*** or elderly person ***or by the person's immediate family, to care for that sick, convalescing, or elderly person and*** whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employees; or

10. Any employee employed by an establishment which is an organized nonprofit camp, religious or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the United States Department of Labor, Bureau of Labor Statistics;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work except for buildings constructed as institutions of learning constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

SB 280, AN ACT relating to investments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386[~~. Provided, however, the commission shall not invest any of the funds collected pursuant to KRS 342.122 in any corporation, company, partnership, or other business entity, or any bank, investment service firm, or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa~~];

(c) Report to the General Assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by such mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each regular legislative session, changes deemed necessary in the level of the assessments imposed in KRS 342.122;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each regular legislative session, a proposed budget for the biennium beginning July 1 following the regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits independently or in cooperation with the Labor Cabinet or the Revenue Cabinet of all entities subject to the assessments imposed in KRS 342.122; and

(h) Report monthly to the Committee on Appropriations and Revenue its monthly expenditures of restricted agency funds and the nature of such expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management and Economic Analysis rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of such funds.

(5) The commission shall be attached to the Revenue Cabinet for administrative purposes only.

Calendar

HB 907, HB 911, HB 918, HB 694, HB 740, HCR 105, SB 13, SB 53, SB 112, SB 131, SB 132, SB 133, SB 206, SB 247, SJR 10, HB 55, HB 118, HB 172, HB 228, HB 290, HB 430, HB 453, HB 520, HB 695, HB 910, HB 915, SB 136, HJR 91, SB 346 and **SB 140** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 3 to **SB 119**, by Representative Coleman:

On page 42, starting on line 2, to insert the following:

SECTION 35. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The State Parks Commission is hereby created. For administrative purposes, this commission is attached to the Department of Parks, which shall provide necessary support staff and services.

(2) The State Parks Commission shall consist of the following members: the commissioner of the Department of Parks; the deputy commissioner of support services; the commissioner of the Department of Fish and Wildlife Resources; the secretary of the Tourism Cabinet; the director of the Kentucky Nature Preserves Commission; the director of the Kentucky Historical Society; the commissioner of the Department of Personnel; and six (6) other members appointed by the Governor, including a resort park manager, and five (5) citizen members including a certified public accountant, a registered architect, an individual who is experienced in tourism promotion, an individual who is experienced in hotel or motel operations, and an individual who is experienced in restaurant operations. The citizen members and resort park manager shall serve four (4) year terms, unless sooner removed for cause; all other members shall serve during their terms of office. The commissioner of the Department of Parks shall act as chairman of the commission. Each citizen member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

SECTION 36. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The State Parks Commission shall meet at least every three (3) months, and when called into session by the chairman at the request of the Governor, or of any two (2) or more members of the State Parks Commission, or on his own motion.

(2) In order to provide for independence, continuity of purpose, and oversight for the Department of Parks, the State Parks Commission shall advise the Governor and the commissioner of the Department of Parks on the following:

(a) The mission of the Commonwealth's state parks;

(b) Park operations, tourism promotion, and natural and historic preservation policy and programs;

(c) Development of new or specialized facilities, attractions or programs; and

(d) Development and implementation of a parks management design which recognizes the changes evolving in the tourism and hotel and motel industries.

SECTION 37. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The State Parks Commission or any one (1) or more of its members may visit and inspect any state resort or recreational park or historic site and may inform and advise the commissioner of the Department of Parks in regard to the facility's physical or other condition, its operation, management, program, and general condition. The State Parks Commission or a majority of its members shall have full access to the grounds, buildings, and financial and other records belonging or relating to the facilities.

SECTION 38. The terms of office for the initial six (6) appointed members of the State Parks Commission shall be staggered as follows: two (2) members shall serve for terms expiring June 30, 1996; two (2) members shall serve for terms expiring June 30, 1997; and two (2) members shall serve for terms expiring June 30, 1998.

Floor Amendment No. 1 to the Committee Substitute to **HB 626**, by Representative Simpson:

On page 1, line 24, after (1), delete *(a)*; and

On page 2, line 1, after "in a" add "*state-operated*"; and

On page 2, delete lines 9-15 through the word "*Kentucky*" on line 15

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 136**, by Representative Bowling:

On page 1, line 15, following "guardian" to add "***, or clergyman***"

Floor Amendment No. 1 to the Committee Substitute to **HB 55**, by Representative Lindsay:

On page 2, by deleting all language on lines 14 and 15.

Floor Amendment No. 4 to **SB 119**, by Representative Coleman:

On page 42, after line 1, by inserting the following sections:

Section 35. KRS 6.905 is amended to read as follows:

(1) There is hereby created a Legislative Program Review and Investigations Committee which shall be a permanent standing committee of the General Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be appointed by the President Pro Tempore and two (2) of whom shall be appointed by the Minority Leader of the Senate, and eight (8) members of the House of Representatives, six (6) of whom shall be appointed by the Speaker and two (2) of whom shall be appointed by the Minority Leader of the House of Representatives. At least one (1) appointee by each appointive authority shall be a member of the Senate or House Standing Committee on Appropriations and Revenue. The appointments shall be made within seven (7) legislative days of the ***end*** ~~[beginning]~~ of each regular session of the General Assembly, and the members so appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. Vacancies shall be filled within sixty (60) days of occurrence in the same manner as the original appointments, and for the balance of the term of the vacated member.

(2) The committee shall select a chairman, ***co-***~~[vice]~~chairman, and other officers as it may deem necessary from among its membership. The chairman and ***co-***~~[vice]~~chairman shall be from different chambers of the General Assembly and shall serve a term of two (2) years; the chamber of origin for the chairman and ***co-***~~[vice]~~chairman shall alternate between the House of Representatives and the Senate. Officers shall be selected at the first meeting of the committee following the end of the regular session. A majority of the membership shall constitute a quorum and all actions authorizing a study, dropping a study, or adopting a final report on any subject under study shall require the affirmative vote of a majority of the full committee membership. All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee. ***The committee co-chairmen may authorize staff to undertake a preliminary study in order to obtain information necessary for the committee to be able to act upon a study request or to determine the scope of a study. The committee shall be informed periodically by the co-chairmen of the status of preliminary studies undertaken.***

(3) When a study is instituted, the committee shall request that the Legislative Research Commission appoint the chairman and a ranking minority member, or their designees, of the committee of relevant jurisdiction to serve as nonvoting ex officio members of the committee in activities related to the relevant study. If the legislative committee that requested the study is a standing committee of one (1) of the houses of the General Assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the study is an interim joint committee of the Legislative Research Commission, the ranking minority member shall be:

- (a) A minority party member of the House of Representatives appointed by the House Minority Leader, if the chairman of the interim joint committee is a member of the Senate; or
- (b) A minority party member of the Senate appointed by the Senate Minority Leader, if the chairman of the interim joint committee is a member of the House of Representatives.

(4) Each regular and nonvoting ex-officio member of the committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the Legislative Research Commission under KRS 7.090(2).

Section 36. KRS 6.915 is amended to read as follows:

(1) Employees of state agencies shall provide the committee ***or its staff*** with necessary information for the performance of its duties, with any assistance needed to properly conduct the research or study, and with timely access in order to conduct the following functions, necessary to conduct any duly authorized study:

- (a) Reviewing, copying, or inspecting any public or confidential information ***either written or electronic, exempted or not exempted under Kentucky Revised Statutes, except those protected from disclosure under KRS 61.878(1) of the Kentucky Open Records Law related to civil litigation or KRS 61.878(1)(g) related to adjudication and criminal investigations or*** ;
- (b) Interviewing personnel; and
- (c) Inspecting or observing facilities, equipment, or operations.

(2) Adequate facilities shall be provided for on-site research at the agency. ***Open*** [~~Timely~~] access to ***original*** agency records and data shall be provided during normal working hours, without any restrictions or conditions imposed by the agency, and at the time and in the form requested by the committee or its staff.

(3) The contents of interviews, data requests, and information specifically compiled at the request of the committee or its staff shall be considered confidential under the Kentucky Open Records Law, KRS 61.870 to 61.884, by the person being interviewed, receiving an information request, or providing information until the information is released publicly by the committee. This subsection shall not apply to reports or documents maintained by the agency in the normal course of its operations and which are governed by KRS 61.870 to 61.884.

(4) Employees of state agencies or programs shall cooperate with the committee or its staff and shall not withhold, destroy, or alter any documents or information requested or given to the committee or its staff.

(5) Employees of state agencies shall inform the committee or its staff of any other documents or information which they know are reasonably related to the subject of the study even if not specifically requested.

(6) No state agency or employee may interfere with any person complying with this section or take any punitive, administrative, or retaliatory action against a person for complying with this section.

(7) Any officer, administrator, or manager of a state agency who knowingly violates or fails to comply with KRS 6.915 shall be subject to a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1000) for each violation. Violators of KRS 6.915(1),(2), (4)or (6) shall be subject to removal by the head of the employing branch of government.

Section 37. KRS 6.930 is amended to read as follows:

(1) In any instance in which a study conducted by or for the committee cites inadequate operating or administrative systems controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the committee shall report such deficiencies and its recommendations for their correction to the head of the state agency or program ***and the head of the branch of government*** to which the report pertains.

(2) The ***head of the branch of government and the*** head of the state agency or program to which the report pertains shall give affirmative consideration to the report ***within sixty (60) days of the adoption of the report*** by:

(a) Adopting the committee's recommendations and reporting ***their actions*** [~~his action~~] to the committee; or

(b) Otherwise correcting the deficiency and reporting ***their actions*** [~~his action~~], and the reasons for not adopting the committee's recommendations, to the committee.

(3) If no corrective action is taken ***by the head of the branch of government or*** by the head of ***the*** [~~a~~] state agency or program in response to a committee report under subsections (1) and (2) of this section, or if the committee deems the corrective action taken to be unsuitable, the committee shall report the matter to the General Assembly, together with its recommendations.

(4) The committee shall report the results of each of its studies, including the committee's recommendations for any further action, to the General Assembly.

Section 38. KRS 6.935 is amended to read as follows:

(1) The Attorney General, or an assistant attorney general designated by him, [~~and~~] the Auditor of Public Accounts***, or the heads of other state agencies*** shall assist the Legislative Program Review and Investigations Committee in whatever manner the committee ***or its co-chairmen deem*** [~~deems~~] that ***these officials*** [~~such officers~~] can be helpful.

(2) Staffing and support services shall be provided the Legislative Program Review and Investigations Committee pursuant to KRS 7.090.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 85, SB 86** and **SB 147** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:20 p.m.)

Orders of the Day

HB 929 taken from the Orders of the Day. Representative Stumbo moved that it placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 929** be passed.

On the roll call the vote was: Yeas 61, Nays 35. (See March 17 , 1994 roll call on **HB 929** - Appendix)

HB 929 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 929** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 146, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Floor Amendment No. 1 to **SB 146**. Agreed.

Representative Bowling moved that **SB 146**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See March 17, 1994 roll call on **SB 146** - Appendix)

SB 146, as amended, was passed and the title agreed to.

Representative Bowling moved that the vote by which **SB 146**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 70 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 70** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 17 , 1994 roll call on **SB 70** - Appendix)

SB 70 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 70** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 401** and **HB 508** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:56 p.m.)

HB 401 and **HB 508** delivered to the Senate and signed by the President. Delivered to the Governor on March 17 at 3:07 p.m.

Orders of the Day (Continued)

SB 73 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 73** be passed.

On the roll call the vote was: Yeas 77, Nays 1. (See March 17 , 1994 roll call on **SB 73** - Appendix)

SB 73 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 73** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 75, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 75** be passed.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 75**. Agreed.

Representative Stumbo moved that **SB 75**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 17, 1994 roll call on **SB 75** - Appendix)

SB 75, as amended, was passed and the title agreed to.

SB 77 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 77** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 17 , 1994 roll call on **SB 77** - Appendix)

SB 77 was passed and the title agreed to.

SB 98 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 98** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17 , 1994 roll call on **SB 98** - Appendix)

SB 98 was passed and the title agreed to.

Floor Amendments (Continued)

Floor Amendment No. 5 to **SB 221**, by Representative Lear:

On page 6, line 6, before the semicolon, by inserting: "*. The Governmental Services Center shall develop a survey to measure employee support for the proposed pilot programs. In organizational units for which pilot programs are considered, the Governmental Services Center shall also devise a process which insures confidentiality in the administration of and the tabulation of the results of the survey*".

Orders of the Day (Continued)

SB 99 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 99** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 17 , 1994 roll call on **SB 99** - Appendix)

SB 99 was passed and the title agreed to.

HB 823, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Floor Amendment No. 1 to **HB 823**. Agreed.

Representative Lewis moved that **HB 823**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 6. (See March 17, 1993 roll call on **HB 823** - Appendix)

HB 823, as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 823**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 159 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 159** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 17 , 1994 roll call on **SB 159** - Appendix)

SB 159 was passed and the title agreed to.

SB 160 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 160** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17 , 1994 roll call on **SB 160** - Appendix)

SB 160 was passed and the title agreed to.

SB 161 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 161** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 17 , 1994 roll call on **SB 161** - Appendix)

SB 161 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 161** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 61**, by Representative Coleman:

On page 15, after line 11, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) A continuing status employee may appeal his layoff on the grounds that the procedures in KRS 151B.085 were not followed.

(2) An appeal filed by a continuing status employee shall be filed with the board within thirty (30) days of the effective date of the layoff. The board shall hear any appeal filed by a continuing status employee within sixty (60) days of the filing date, and it shall render a final order within ninety (90) days of the filing date.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) A final order of the board either upholding or invalidating the layoff of a continuing status employee may be appealed either by the employee or by the appointing authority.

(2) The party aggrieved may, within thirty (30) days after the entry of the final order with which he is dissatisfied, appeal that order by filing a petition with the clerk of the Franklin Circuit Court. The petition shall state the grounds upon which the review is sought and shall specify the alleged errors in the board's conclusion and order. The appellant shall furnish a copy of the petition to the opposing party and the board. Service on the board shall be had by serving the Attorney General or any assistant attorney general. The secretary of the board shall within thirty (30) days after service of the summons file an attested copy of the order with the circuit clerk, and of all the steps taken by the board relative to the attested order. If either party requests a transcript of the evidence, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days.

(3) The board, the employee, and the appointing authority shall be necessary parties to the appeal. It shall not be necessary for the board to file responsive pleadings unless it so desires. If the appeal is from an order upholding the layoff, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the layoff, the burden of appearing and defending the action of the board shall be upon the employee.

(4) The case shall be set for hearing by the court as early as possible, and shall in all respects be expedited.

(5) No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case. The court shall hear the case upon the record as attested by the secretary of the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law.

(6) The court shall enter judgment affirming, modifying, or setting aside the order or, in its discretion, remanding the case to the board for proceedings in conformity with the directions of the court.

(7) Any party may appeal from the Circuit Court to the Court of Appeals in accordance with the Rules of Civil Procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

All full-time vacancies shall be posted in all schools and offices ten (10) days prior to filling a certified or equivalent position in the classified section of the KRS Chapter 151B personnel system."

Orders of the Day (Continued)

SB 167 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 167** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17 , 1994 roll call on **SB 167** - Appendix)

SB 167 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 167** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 128 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 128** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 17 , 1994 roll call on **SB 128** - Appendix)

SB 128 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 128** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 174 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 174** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17 , 1994 roll call on **SB 174** - Appendix)

SB 174 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 174** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 300, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 300**. Agreed.

Representative Long moved that **HB 300**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1994 roll call on **HB 300** - Appendix)

HB 300, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 300**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 29 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HJR 29** be adopted.

On the roll call the vote was: Yeas 94, Nays 0. (See March 17 , 1994 roll call on **HJR 29** - Appendix)

HJR 29 was adopted.

Representative Long moved that the vote by which **HJR 29** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 301, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 301**. Agreed.

Representative Long moved that **HB 301**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 17, 1994 roll call on **HB 301** - Appendix)

HB 301, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 301**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 27 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HJR 27** be adopted.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17 , 1994 roll call on **HJR 27** - Appendix)

HJR 27 was adopted.

Representative Long moved that the vote by which **HJR 27** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 5 to the Committee Substitute to **HB 402**, by Representative Coleman:

On page 1, line 14, after "***management;***" by deleting "***and***"; and

on line 15, after "*(i)*" by inserting "*A representative of the Attorney General's Office; and (j)*", and by deleting "***Three (3)***" and by removing the brackets around and strikethrough of "~~[Two (2)]~~".

Floor Amendment No. 6 to the Committee Substitute to **HB 402**, by Representative French:

On page 3, between lines 20 and 21, by inserting the following:

"*(8) One third (1/3) of the gross receipts from the petroleum environmental assurance fee shall be placed in the State Treasury to be used for payments to county treasurers under KRS 431.215(2).*".

Floor Title Amendment to **HB 402**, by Representative French:

By amending the title to read as follows: "AN ACT relating to petroleum funds."

Floor Amendment No. 2 to the Committee Substitute to **HB 679**, by Representative Burch:

On page 1, By deleting lines 1 through 25 and inserting in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 and Section 9 of this Act unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retailer for resale.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Except for vending machines located in factories, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail outlet.

(2) Any person who violates subsection (1) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber and each retail outlet with a cashier selling tobacco products through a vending machine and licensed under KRS 138.195 shall report the name and address of each retailer to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each person licensed to sell tobacco products at a retail outlet with a cashier shall notify each individual employed

by that person as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The retailer shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail outlet for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 1 to 8 and Section 9 of this Act.

(4) Any person who violates subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of locations where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 1 to 8 and Section 9 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 1 to 8 and Section 9 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 1 to 8 and Section 9 of this Act. Each local health department, or district health department that agrees to enforce Sections 1 to 8 and Section 9 of this Act shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 1 to 8 and Section 9 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 1 to 8 and Section 9 of this Act.

Section 8. KRS 438.045 is amended to read as follows:

(1) No person shall [~~knowingly~~] sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or [~~knowingly~~] solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation.

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** [~~provide~~] cigarettes or tobacco products***, including*** [~~or~~] samples thereof***,*** free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** [~~twenty-five~~] dollars

($100) ~~[($25)]~~ nor more than ***two hundred fifty*** ~~[one hundred]~~ dollars ***($250)*** ~~[($100)]~~ for each offense. ***The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.***"

And by deleting pages 2 through 6 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **SB 76**, by Representative Barrows:

On page 4, between lines 9 and 10, by inserting the following:

"Section 2. KRS 36.355 is amended to read as follows:

(1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide ***long-term***~~[domiciliary or nursing home]~~ care to veterans who are residents of Kentucky.

(2) The Kentucky state veterans' nursing homes shall be ***attached to the Finance and Administration Cabinet***~~[under the administrative authority and control of the Department of Military Affairs]~~. The ***Finance and Administration Cabinet***~~[Department of Military Affairs]~~ may promulgate ***any***~~[such]~~ administrative regulations ~~[as are]~~necessary to operate the homes in compliance with applicable state and federal statutes and regulations.

(3) The ***Finance and Administration Cabinet may***~~[Department of Military Affairs is authorized to]~~ seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.

Section 3. KRS 36.360 is amended to read as follows:

For the purpose of financing the costs of the construction or renovation of Kentucky state veterans' nursing homes and all proper costs necessary or incidental thereto, the ***Finance and Administration Cabinet***~~[Department of Military Affairs]~~ is hereby authorized to apply to the State Property and Buildings Commission for the issuance of revenue bonds and to enter into ***any***~~[such]~~ leases or other financing agreements in respect of the Kentucky state veterans' nursing homes ~~[as are]~~necessary or desirable to provide revenues to amortize and secure ***the***~~[such]~~ revenue bonds."

And, on page 4, line 10, by changing "Section 2" to "Section 4".

Orders of the Day (Continued)

HB 302, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 302**. Agreed.

Representative Noland moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 302**. Agreed.

Representative Cyrus moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 302**. Agreed.

Representative Long moved that **HB 302**, by way of Committee Substitute as amended, be passed.

Representative Yates moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 302**.

On the roll call to adopt Floor Amendment No. 4 to the Committee Substitute to **HB 302**, the roll call was **Yeas 55**--Ackerson, Allen, Arnold, Ballard, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Cyrus, DeWeese, Donnermeyer, Ford, Fox, French, Gedling, Graham, Gray, Harper, Heleringer, Jensen, Johnson, Kerr, Lear, Lile, Maggard, Maricle, Marzian, Morris, Napier, Nelson, Noland, Northup, Nunn, Rapier, Reinhardt, Riggs, Riner, Scott, Shacklette, Simpson, R. Smith, Stengel, Todd, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 31**--Adkins, Barrows, Bentley, Bowling, Clarke, Coleman, Collins, Crenshaw, Curd, Damron, Deskins, Farrow, Geveden, Hampton, Lee, Lewis, Little, Long, Mason, McElroy, Moberly, Mullinix, Nesler, Rasche, Richards, Ridley, Scorsone, B. Smith, Stacy, Stumbo, Trapp.

Floor Amendment No. 4 to the Committee Substitute to **HB 302** was adopted.

Representative Lear moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 302**.

Representative Bentley inquired if Floor Amendment No. 2 to the Committee Substitute to **HB 302** was a piggyback.

The Speaker ruled that Floor Amendment No. 2 to the Committee Substitute to **HB 302** was not a piggyback.

On the roll call to adopt Floor Amendment No. 2 to the Committee Substitute to **HB 302**, the vote was **Yeas 22**--Allen, Altman, Arnold, Ballard, Bryant, Coleman, DeWeese, Farrow, Gedling, Graham, Harper, Heleringer, Lile, Maricle, McElroy, Northup, Ridley, B. Smith, R. Smith, Treesh, Walton, Zimmerman. **Nays 67**--Ackerson, Adams, Adkins, Bentley, Bondurant, Bowling, Bruce, Buis, Burch, Callahan, Cave, L. Clark, P. Clark, Clarke, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, Donnermeyer, Farley, Ford, Fox, French, Geveden, Gray, Hancock, Hatcher, Jensen, Johnson, Keith, Kerr, Lee, LeMaster, Lewis, Lindsay, Little, Long, Maggard, Marzian, Mason, Moberly, Napier, Nelson, Nesler, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, Stacy, Stengel, Stumbo, Todd, Trapp, Turner, Wayne, Worthington.

Floor Amendment No. 2 to the Committee Substitute to **HB 302** was rejected.

Representative Long moved that **HB 302**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 6. (See March 17, 1994 roll call on **HB 302** - Appendix)

HB 302, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 302**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HJR 28** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17 , 1994 roll call on **HJR 28** - Appendix)

HJR 28 was adopted.

Representative Long moved that the vote by which **HJR 28** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 110, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 2 to **HB 110**.

On the roll call to adopt Floor Amendment No. 2 to **HB 110**, the vote was **Yeas 60**--Adams, Allen, Altman, Arnold, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Butler, Callahan, Cave, P. Clark, Collins, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farrow, Ford, Fox, French, Gedling, Gee, Graham, Hancock, Harper, Heleringer, Jensen, Johnson, Kerr, Lee, LeMaster, Lile, Lindsay, Long, Maggard, Morris, Napier, Nesler, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Sanders, Stacy, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Yates, Zimmerman. **Nays 19**--Ackerson, Ballard, Buis, Burch, L. Clark, Curd, Geveden, Gray, Hatcher, Lear, McElroy, Noland, Northup, Riggs, Riner, Scorsone, Scott, Simpson, Stengel.

Floor Amendment No. 2 to **HB 110** was adopted.

Representative Damron moved the adoption of Floor Amendment No. 5 to **HB 110**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 3 to **HB 110**.

On the roll call to adopt Floor Amendment No. 3 to **HB 110**, the vote was **Yeas 55**--Adams, Allen, Altman, Arnold, Barrows, Bentley, Bondurant, Brown, Bruce, Callahan, Cave, Collins, Crenshaw, Curd, Damron, Donnermeyer, Farrow, Ford, Fox, Gedling, Gee, Hampton, Hancock, Harper, Heleringer, Jensen, Johnson, Kerr, Lee, LeMaster, Lewis, Lindsay, Maggard, Morris, Mullinix, Napier, Noland, Nunn, Rapier, Rasche, Reinhardt, Richards, Ridley, Sanders, B. Smith, R. Smith, Stacy, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Yates. **Nays 33**--Ackerson, Adkins, Ballard, Bowling, Buis, Burch, Butler, L. Clark, P. Clark, Cyrus, DeWeese, French, Geveden, Gray, Hatcher, Lear, Lile, Little, Long, Marzian, Mason, Moberly, Nesler, Northup, Riggs, Riner, Scorsone, Scott, Shacklette, Simpson, Stengel, Wayne, Zimmerman.

Floor Amendment No. 3 to **HB 110** was adopted.

Representative Damron moved that **HB 110**, as amended, be passed.

Representative Riggs moved that **HB 110** be laid on the table.

On the roll call to lay **HB 110** on the table, the vote was **Yeas 27**--Adkins, Ballard, Buis, Burch, Butler, L. Clark, P. Clark, Curd, Cyrus, DeWeese, Farley, Ford, Geveden, Gray, Hatcher, Long, Marzian, McElroy, Moberly, Richards, Ridley, Riggs, Riner, Scorsone, Scott, Simpson, Stengel. **Nays 55**--Adams, Allen, Altman, Arnold, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Callahan, Cave, Collins, Crenshaw, Damron, Donnermeyer, Fox, French, Gedling, Graham, Hancock, Harper, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Little, Maggard, Morris, Mullinix, Napier, Nesler, Noland, Northup, Nunn, Rapier, Rasche, Reinhardt, Sanders, Shacklette, B. Smith, R. Smith, Stacy, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Yates, Zimmerman.

The motion that **HB 110**, as amended, be laid on the table was rejected.

Representative Damron moved that **HB 110**, as amended, be passed.

On the roll call the vote was: Yeas 52, Nays 32. (See March 17, 1993 roll call on **HB 110** - Appendix)

HB 110, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 110**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **SB 271**, by Representative Brown:

On page 1, line 3, after "of" insert "***the Department of***"; and

On page 1, line 3, delete "workplace standards" and insert in lieu thereof "Workplace Standards"; and

On page 1, line 8, insert "***including***" after the word "employment," and bracket and strike through the phrase "such compensation to include"; and

On page 1, line 11, after "policy" insert "***. The***" and bracket and strike through the word "such"; and insert the word "***shall***" following "wages" and bracket and strike through the second "to"; and

On page 1, line 13, after "to" insert "***the***" and bracket and strike through "such"; and

On page 2, line 2, after the second" as" insert "***the***" and bracket and strike through "such"; and

On page 2, line 9, place an opening bracket before and strike through "of"; and

On page 2, line 10, strike through and place a closing bracket after "workplace standards"; and

On page 2, line 12, bracket and strike through "as"; and

On page 2, line 13, bracket and strike through "of workplace standards"; and

On page 2, line 14, after "at" add "***the***" and bracket and strike through "such"; and

On page 2, line 15, add "***the***" after "for" and bracket and strike through "such" and "as"; and

On page 2, line 16, bracket and strike through "shall be"; and

On page 2, line 17, before "such" add "***the***" and bracket and strike through "such"; and

On page 3, line 4, after "of" insert "***the Department of***"; and

On page 3, line 4, delete "personnel" and insert in lieu thereof "Personnel"; and

On page 3, line 6, bracket and strike through "as"; and

On page 3, line 13, after "soil" insert "***;***" and bracket and strike through the comma; and

On page 3, line 13, after "dairying" insert "***;***" and bracket and strike through the comma; and

On page 3, line 14, after "commodity" insert "***;***" and bracket and strike through the comma; and

On page 3, line 15, insert "***;***" after "poultry" and bracket and strike through the comma; and

On page 3, line 27, insert the word "***project***" after "works"; and

On page 4, line 1, place an opening bracket before and strike through "in"; and

On page 4, strike through lines 2 and 3; and

On page 4, line 4, strike through and place a closing bracket after "Bureau of Labor Statistics"; and

On page 4, line 8, add "***the***" after the second "of" and bracket and strike through "such"; and

On page 4, line 11, after "Locality" insert "***shall be determined by the commissioner. He may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senate district. He shall not designate less than an entire county as a locality***"; and

On page 4, line 11, place an opening bracket before and strike through "means the county where the physical work upon public works"; and

On page 4, strike through lines 12 through 17; and

On page 4, place a closing bracket after and strike through "to perform the work"; and

On page 4, line 21, insert "***the***" after the first "of" and change the "t" in "transportation" to upper case and add "***Cabinet***" after the word "transportation"; and

On page 4, line 23, bracket and strike through the words ", in no event, shall" and add "***shall not***" after "he"; and

On page 5, line 4, add "***works***" after "public" and bracket and strike through "building facilities"; and

On page 5, line 6, place an opening bracket before and strike through "except for"; and

On page 5, line 7, place a closing bracket after and strike through "buildings constructed as institutions of learning"; and

On page 5, line 10, insert "***the***" after "unless" and bracket and strike through "such"; and

On page 5, line 12, after "(4)" insert "***If***" and bracket and strike through the phrase "In any case where"; and

On page 5, line 15, insert "***the***" after "of" and bracket and strike through "such"; and

On page 14, line 16, after "and" insert "***if***" and bracket and strike through "where"; and

On page 5, beginning after line 17, insert the following:

"Section 2. KRS 337.505 is amended to read as follows:

For the purpose of KRS 337.505 to 337.550, the term "prevailing wage" for each classification of laborers, workmen, and mechanics engaged in the construction of public works within the Commonwealth of Kentucky, means the sum of:

(1) The basic hourly rate paid or being paid subsequent to the ~~[labor]~~ commissioner's most recent wage determination to the majority of laborers, workmen, and mechanics employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed***; the*** ~~[such]~~rate shall be determined by the commissioner in accordance with paragraphs (a), (b), and (c) of subsection (3) of KRS 337.520; in the event that there is not a majority paid at the same rate, then the basic hourly rate of pay shall be the average basic hourly rate which shall be determined by adding the basic hourly rates paid to all workers in the classification and dividing by the total number of ***the*** ~~[such]~~workers, and

(2) An additional amount per hour equal to the hourly rate of contribution irrevocably made or to be made by an employer on behalf of employees within each classification of construction to a trustee or to a third person pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the employees affected, for the following fringe benefits: medical or hospital care, pensions on retirement, death compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defraying costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the employer is not required by other federal, state***,*** or local law to provide any of ***the*** ~~[such]~~benefits: ***the*** ~~[provided, said]~~additional amount may, at the discretion of the employer, be paid either in cash to the employee or by contributions for fringe benefits, or partly in cash and partly by ~~[such]~~contributions, it being the intention of this subsection to recognize fringe benefits as a part of the prevailing wage rate where made in accordance with this subsection.

Section 3. KRS 337.520 is amended to read as follows:

(1) The commissioner shall make initial determinations and current revisions thereof of schedules of rates of prevailing wages, of the amount of fringe benefits included therein as defined in KRS 337.505, and the number of hours applicable thereto. The commissioner ***may promulgate***~~[shall have the authority to make]~~ and revise ***the administrative***~~[such rules and]~~ regulations ~~[as]~~he may deem appropriate to carry out the provisions and purposes of KRS 337.505 to 337.550 and to prevent the circumvention or evasion thereof. ***The administrative***~~[Such rules and]~~ regulations shall not include a provision that each contractor and subcontractor shall furnish a sworn affidavit with respect to the wages paid each employee. No rule or regulation or revisions thereof shall be issued by the commissioner except upon reasonable notice to, and opportunity to be heard by, any interested person.

(2) The commissioner shall require the filing of all wage contracts of all laborers, workmen, and mechanics in this state which have been agreed to between bona fide organizations of labor and an employer or associations of employers. ***The*** ~~[Such]~~ contracts shall be filed within ten (10) days after they are signed.

(3) The commissioner shall have the authority to determine schedules, and current revisions thereof, of the rates of prevailing wages as defined in KRS 337.505, but in no case shall the commissioner determine wages to be paid for a legal day's work to laborers, workmen, and mechanics engaged in the construction of public works at less than the prevailing wages paid in the localities. The commissioner in determining what rates of wages prevail shall consider the following criteria:

   (a) Wage rates paid on previous public works constructed in the localities. In considering ***the***~~[such]~~rates***,*** the commissioner shall ascertain, insofar as practicable, the names and addresses of the contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project***,*** and the respective wage rates paid each worker who was engaged in the construction of these projects.

   (b) Wage rates previously paid on reasonably comparable private construction projects constructed in the localities. In considering ***the***~~[such]~~ rates the commissioner shall ascertain***, insofar as practicable,*** the names and addresses of ***the***~~[all]~~contractors including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project***,*** and the respective wage rates paid each worker who was engaged in the construction of ***these*** projects.

   (c) Collective bargaining agreements or understandings between bona fide organizations of labor and their employers located in the Commonwealth of Kentucky which agreements apply or pertain to the localities wherein the public works are to be constructed.

(4) The wage rates to be used by the public authority in a contract for the construction of public works shall be the prevailing wage as of the date the public works project is advertised and offered for bid. If contracts are not awarded within ninety (90) days after the date of offering for bid***,*** the public authority shall ascertain the prevailing rate of wages from the department before the contract is awarded. The schedule or scale of prevailing wages shall be incorporated in and made a part of each contract.

(5) The commissioner ***may***[~~shall have the authority to~~] make regulations authorizing the employment of apprentices and trainees in skilled trades at wages lower than the applicable prevailing wage.

Section 4. KRS 337.522 is amended to read as follows:

(1) The commissioner or his authorized representative shall conduct a public hearing for the purpose of making initial determinations, or current revisions thereof, of a prevailing wage schedule for the construction of public works pertaining to a locality. The commissioner shall within ***sixty (60)***[~~ninety (90)~~] days of the receipt of the transcript of a hearing publish his wage determination. ***The***[~~Such a~~] hearing shall be conducted in the locality after notice has been given as provided in subsection (3) of this section. ***The commissioner shall not be required to utilize this section in any county or locality where the United States Department of Labor has issued a prevailing wage under the Davis-Bacon or related acts, in which case, the commissioner may adopt the wage schedule and any modifications issued by the United States Department of Labor and published in the Federal Register.***

(2) A public authority or any interested person may request and shall be granted an additional hearing solely for the purpose of having considered a review of the commissioner's determination of the prevailing wage schedule for the construction of public works in the locality; after notice has been given as provided in subsection (3) of this section, ***the*** [~~such~~]hearing shall be conducted in the locality by a prevailing wage review board consisting of one (1) member representing employers in the construction industry, one (1) member representing labor in the construction industry, and one (1) member appointed by the public authority requesting the hearing. The member appointed by the public authority shall reside in the locality ***in which*** [~~wherein~~] the public works are to be constructed. The members of the board representing employers in the construction industry and labor in the construction industry shall be appointed for periods of not more than four (4) years by the Governor from a list of prospective members recommended by bona fide associations representing the construction industry and bona fide labor organizations representing workers employed in the construction industry, and ***the*** [~~such~~]members shall serve on the board for all hearings during their tenure. Prevailing wage review boards shall have the authority to revise prevailing wage schedules for the construction of public works; however, such revisions shall be governed by the same criteria and regulations governing wage determinations of the commissioner. A revision of a prevailing wage schedule for the construction of public works shall require a vote of a majority of the members. The members of a prevailing wage review board shall receive their actual necessary expenses incurred in carrying out their duties and such expenses shall be paid out of the general fund of the Commonwealth of Kentucky.

(3) Notice of hearings as required in subsections (1) and (2) of this section shall be given by advertising one (1) time in the newspaper having the largest circulation in the locality, and ***the***[~~such~~] advertisement shall be run not less than ten (10) nor more than twenty (20) days prior to the date of the hearing. The advertisement shall set forth all pertinent information of the hearing regarding the time, place, and purpose of the hearing.

(4) The prevailing wage review boards shall be attached to the Labor Cabinet for administrative purposes.".

Floor Amendment No. 1 to **HB 655**, by Representative Stacy:

On page 1, line 3, after "***employee***", by inserting "***, or any former employee for up to one (1) year after leaving his state position,***".

Floor Amendment No. 3 to **SB 136**, by Representative Stengel:

On page 1, line 14, following "***parent***" to add the following:

"***, or one (1) grandparent,***"

Orders of the Day (Continued)

HB 311, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute to **HB 311**. Agreed.

Representative Crenshaw moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 311**.

Agreed.

Representative Bowling moved that **HB 311**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 63, Nays 29. (See March 17, 1994 roll call on **HB 311** - Appendix)

HB 311, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 311**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 195**, **SB 266**, **SB 297**, **SB 316** and **SB 337**. Message received on **HB 546**: The Senate has passed **HB 546** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body. (Time: 6:00 p.m.)

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that **HB 376** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that **HB 605** be placed in the Orders of the Day for March 18, 1994. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Health and Welfare: **SB 311**

Report of Committees (Continued)

The Committee on Transportation reported **HB 828**, with Committee Amendment attached thereto, **HR 58**, **HR 61**, **SB 33**, with Committee Amendment attached thereto, **SB 205**, **SB 227**, with Committee Amendment attached thereto, **SB 228**, **SB 237** and **SJR 51** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 828, AN ACT relating to traffic control devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.231 is amended to read as follows:

(1) The secretary of ***the*** Transportation ***Cabinet*** may install and maintain traffic control devices upon state-maintained highways in ***a*** ~~[such]~~ manner ~~[as is]~~ reasonably necessary to promote the safety and convenience of the traveling public.

(2) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

(3) The secretary of ***the*** Transportation ***Cabinet*** may restrict or regulate traffic upon state-maintained highways in ~~[such]~~ a manner ~~[as is]~~ reasonably necessary to promote the safety of the traveling public.

(4) In addition to the provisions of this section, the secretary of the Transportation Cabinet shall install a traffic control device at the entrance to the station of every volunteer fire department, as defined in KRS 95A.262(2), that is located on a state maintained highway. The traffic control device shall be synchronized to stop all oncoming traffic when the volunteer fire department vehicles exit the station to respond to a fire.

The Committee Amendment No. 1 to **HB 828** is as follows:

On page 1, line 14, after the word "***highway***" and before the period "***.***" insert the following:

"***in any county containing a city of the first class***".

HR 58, A RESOLUTION directing the Transportation Cabinet to identify the most appropriate grade of rock used as surface material in railroad beds and walkways.

WHEREAS, reducing workplace hazards is an important goal from every viewpoint; and

WHEREAS, the use of large-grade rock as surface material for railroad beds and walkways constitutes a grave workplace hazard to railroad workers; and

WHEREAS, hazardous working conditions result in accidents which contribute to lower productivity and higher operating costs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is directed to study the issue of rock grade size used as surface material in railroad beds and walkways and propose legislative or executive solutions to reducing the hazardous working conditions that railroad workers are currently experiencing with large-grade rock. Any remedy proposed should view the issue as a safety matter, taking into consideration federal railroad law, and, be reported to the Legislative Research Commission no later than August 1, 1995.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Secretary Don Kelly, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40601.

HR 61, A RESOLUTION directing the Transportation Cabinet to propose exemptions to chemical use bans impacting railroad right-of-way maintenance or identify alternatives to this rapidly growing problem.

WHEREAS, recent environmental impact studies have resulted in the banning of chemicals formerly used to eliminate vegetation along railroad right-of-ways; and

WHEREAS, since implementation of the chemical ban, railroad right-of-ways have not been properly maintained; and

WHEREAS, vegetation overgrowth has begun to impede vision and the safe and precise operation of trains; and

WHEREAS, this excess growth along inadequately maintained routes presents a distinct fire hazard;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is directed to study the problem of keeping railroad right-of-ways clear, and to propose legislative or executive solutions that may include, but not be limited to, exemptions to chemical bans, identification of alternative substances or methods, or stronger enforcement procedures. These remedies shall be addressed as a matter of safety and in compliance with federal railroad law and reported to the Legislative Research Commission no later than August 1, 1995.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Secretary Don Kelly, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40601.

SB 33, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) ***Except as provided in paragraph (e) of this subsection,*** motor vehicles, regardless of ownership, used exclusively:

  (a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;

  (b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

  (c) For both the purposes described in paragraphs (a) and (b) of this subsection; ~~{or}~~

  (d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; ***or***

  (e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles to the extent such are used or operated in transportation programs pursuant to grants of funds in furtherance of and governed by the provisions of Title III and Title VII of the Federal Older Americans Act of 1965, Public Law 89-73, including all amendments thereto, and to the extent such are used or operated to transport persons whose fares are reimbursed or paid through programs in furtherance of and governed by the provisions of Title XIX and Title XX of the Federal Social Security Act, including all amendments thereto;

(5) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(6) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(7) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(8) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(9) Motor vehicles used as ambulances in transporting wounded, injured, or sick persons or animals;

(10) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(11) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(12) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents***;***

(13) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky.

Section 2. KRS 186.281 is amended to read as follows:

(1) On or before ***March*** [~~January~~] 1 of each year, and as a condition precedent to the use of the highways, every motor carrier primarily engaged in transporting passengers for hire shall pay to the Department of Vehicle Regulation for the privilege of using the highways an annual tax upon each motor vehicle so used, as follows: Four dollars and fifty cents ($4.50) for each regular seat for the first thirty-one (31) seats, and eight dollars ($8) for all seats in excess of thirty-one (31); except as provided in subsection (2) of this section, except that holders of nonprofit bus ***permits*** [~~certificates~~] shall be exempt from payment hereunder and except that taxicabs, limousines, [~~city~~] buses, [~~industrial buses, suburban buses,~~] and U-Drive-Its as defined in KRS Chapter 281, shall pay the fees set forth in subsection (3) of this section.

(2) (a) ***A*** [~~Any such~~] motor carrier engaged in regular route interstate commerce or combined interstate and intrastate commerce and operating two (2) or more vehicles in Kentucky shall be required to pay only that portion of a tax imposed by subsection (1) of this section as the number of miles operated by ***a*** [~~such~~] fleet of motor vehicles in Kentucky bears to the total miles operated by ***a*** [~~such~~] fleet in any license year, or portion thereof.

(b) ***A*** [~~Any such~~] motor carrier shall prior to ***March*** [~~January~~] 1 of each license year, and as a prerequisite to operating on the highways of this state, obtain a permit from the Department of Vehicle Regulation and at that time shall pay its estimated tax hereunder, as determined by the Department of Vehicle Regulation's ***administrative*** [~~applicable~~] regulations, and execute bond for any additional tax which might be due, with or without surety thereon, as the Department of Vehicle Regulation *may* ~~[in its discretion and according to its regulations might]~~ require.

(c) The Department of Vehicle Regulation is authorized and directed to promulgate *administrative* ~~[such]~~ regulations ~~[as may be necessary]~~ to effectuate the apportionment of taxes prescribed in subsection (2) of this section. *The* ~~[Such]~~ regulations shall provide that the estimate of ~~[such]~~ taxes for any license year shall be that proportion that would have been due in the prior license year and shall further provide for a license year-end accounting with a system of credit or deficiency assessment in any amount by which the estimate differs from the tax due~~[hereunder]~~.

(3) Taxicabs, limousines, *airport shuttle vehicles* ~~[city, suburban, and industrial]~~ buses, and U-Drive-Its, shall pay the following annual license fees:

Each taxicab	*$15.00* ~~[$3.00 per seat]~~
Each limousine	*$20.00* ~~[$3.00 per seat]~~
Each airport shuttle vehicle	*$45.00*
Each ~~[city]~~ bus	*$100.00* ~~[$5.00 per vehicle]~~
~~[Each industrial bus~~	~~$2.50 per seat~~
~~Each suburban bus~~	~~$5.00 per vehicle]~~
Each U-Drive-It-passenger car	*$15.00* ~~[$2.50 per seat]~~

(4) All cities of the Commonwealth are hereby authorized to impose an annual license tax on all taxicabs or limousines certificated by the Department of Vehicle Regulation for operation in said city, which license tax shall not exceed thirty dollars ($30) per taxicab or limousine.

(5) Notwithstanding any other provisions of this section, nonresident motor carriers engaged in transporting passengers for hire in irregular route interstate charter or special operations shall be exempt from all taxes and fees prescribed herein, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

The secretary of the Transportation Cabinet is hereby authorized to join and negotiate with other states a compact for overdimensional permits. If the secretary joins a compact pursuant to this subsection, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the administration and enforcement of a compact on overdimensional permits.

The Committee Amendment No. 1 to **SB 33** is as follows:

On page 3, line 24, after the word "*necessity*" and before the word "*that*" insert the following:

"*or qualifying as an indirect air carrier*"; and

On page 4, line 3, after the period "*.*" insert the following:

"*The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section.*"

SB 205, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall promulgate administrative regulations to establish a medical review board. The purpose of the medical review board shall be to receive cases relating to the ability of an applicant or holder of a motor vehicle operator's license to drive due to physical or mental infirmities which may affect or limit a person's ability to safely operate a motor vehicle.

(2) The secretary shall appoint any number of physicians licensed in the Commonwealth to the medical review board. Not less than three (3) members shall be present in order to conduct a hearing. Each member shall receive two hundred dollars ($200) per day for attending meetings of the board and shall be reimbursed for necessary expenses incurred in attending meetings.

(3) The cabinet shall promulgate administrative regulations regarding the procedures of the medical review board.

Section 2. KRS 186.411 is amended to read as follows:

(1) *When* ~~[Whenever]~~ a person with a seizure condition applies for *an original, duplicate, modified, or renewal operator's* ~~[a driver's]~~ license, or applies for *an instruction permit* ~~[a renewal of a driver's license]~~, he shall be *required* ~~[requested]~~

by the cabinet to present to the division of driver licensing certification by a physician that his condition is controlled by drugs, ***details*** [~~a detailment~~] of the drugs, and dosages [~~of same~~] which the person takes ***and that he has been seizure free for ninety (90) days; and***, his own statement that he has been free of any seizures for ninety (90) days before the date of the application, and that he is taking the medication prescribed by his physician. The division shall upon receipt of ***the required*** [~~such~~] documentation issue him a letter of authorization to present to the circuit [~~Court~~] clerk. ***The circuit clerk shall not issue an operator's license to a person with a seizure condition who does not present this letter of authorization.***

(2) Any person who has a seizure condition who cannot present the certification that his condition is controlled by drugs or a statement that he has been seizure-free for ninety (90) days shall be notified in writing by the cabinet ***that his privilege to operate a motor vehicle is withdrawn and*** of his right to have a hearing on the matter of whether he is an unsafe driver as a result of having the seizure condition. ***The*** [~~Such~~] notice shall be mailed by first class mail to the [~~last known~~] address of ***record of*** the person. ***The*** [~~Such~~] hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails notice. The hearing shall be scheduled as early as practical [~~within not to exceed twenty (20) days~~] after receipt of ***the*** [~~such~~] request at a time and place designated by the cabinet.

(3) ***A person whose seizure condition would impair his ability to operate a motor vehicle may present evidence of the condition to the Division of Driver Licensing's Medical Review Board as established under Section 1 of this Act, including his own attested statement, physician's statement, and medical dosage details. If the board determines that the person's seizure condition would not impair his ability to operate a motor vehicle, the division shall issue the letter of authorization required by subsection (1) of this section.***

(4) Any physician shall not be subject to civil or criminal liability, absent a showing of bad faith, for providing any reports, records, examinations, opinions, or recommendations pursuant to this section.

Section 3. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) Any person under the age of eighteen (18) who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(3) Any person whose operator's license has been suspended, during the period of suspension;

(4) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(5) An habitual drunkard or drug addict;

(6) Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of the superintendent that the applicant is competent. The State Police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(7) Any person who in the opinion of the State Police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(8) Any person who is unable to understand highway warnings or direction signs in the English language;

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11) Any person who has not filed a correct and complete application ***attested to*** [~~signed~~] in the presence of a person authorized to administer oaths; [~~or~~]

(12) ***Any person who cannot meet the requirements set forth in KRS 186.411; or***

(13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5). The fee shall be paid by certified check or money order payable to the State Treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of ***the*** [~~such~~] individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

SB 227, AN ACT relating to the extended weight coal and coal by-products haul road system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.9771 is amended to read as follows:

(1) The "extended weight coal or coal by-products haul road system" shall consist of public highways over which quantities of coal or coal by-products in excess of fifty thousand (50,000) tons were transported by motor vehicles during the period from January 1, 1985, through December 31, 1985, and shall be updated annually thereafter.

(2) The secretary of the Transportation Cabinet shall by official order on or before November 1, of each year, certify such public highways or portions thereof, as fulfill the criteria in subsection (1) of this section, as the extended weight coal or coal by-products haul road system. ***However, the secretary of the Transportation Cabinet shall, upon receipt of a certified resolution by a fiscal court or city of the first through the sixth class, or an urban-county government, add the road or road segments identified in the resolution to the extended weight coal or coal by-products haul road system.***

(3) The total tons of coal or coal by-products transported by motor vehicles over any public highway shall be determined from the official coal or coal by-products road system transportation report required pursuant to KRS 177.977.

(4) Any vehicle, when registered with a declared gross weight of eighty thousand (80,000) pounds and when transporting coal or coal by-products over public highways which are part of the extended weight coal or coal by-products haul road system or portions thereof, may be operated at the weights as set forth below in excess of the maximum gross weight prescribed in KRS 189.221 and 189.222 and any other maximum weight limitations on state or county maintained systems by entering into a cooperative agreement as provided in KRS 177.979 or by paying the corresponding decal fee as set forth below:

(a) A single unit truck having one (1) steering axle and two (2) axles in tandem shall be limited to a maximum gross weight of ninety thousand (90,000) pounds with a tolerance of five percent (5%), and pay a decal fee of one hundred sixty dollars ($160) annually;

(b) A single unit truck having one (1) steering axle and three (3) axles in tridem arrangement shall be limited to a maximum gross weight of one hundred thousand (100,000) pounds with a tolerance of five percent (5%), and pay a decal fee of two hundred sixty dollars ($260) annually;

(c) Tractor-semitrailer combinations with five (5) or more axles shall be limited to a maximum gross weight of one hundred twenty thousand (120,000) pounds with a tolerance of five percent (5%), and pay a decal fee of three hundred sixty dollars ($360) annually;

(d) Any motor carrier involved in the transportation of coal or coal by-products which meets gross axle weights of twenty thousand (20,000) pounds per axle and twelve thousand (12,000) pounds for the steering axle may register in excess of eighty thousand (80,000) pounds by payment of eight hundred forty dollars ($840) plus an additional decal fee of ten dollars ($10) per one thousand (1,000) pounds of registered weight above eighty thousand (80,000) pounds;

(e) For purposes of this section, KRS 177.979 and 189.230, and for purposes of the extended weight coal or coal by-products haul system, the dimensional requirements of motor vehicles shall conform to all appropriate federal laws and regulations;

(f) The payment of the decal fee shall be in addition to any state registration fee, user fee or other decal fee, including the registration fee as specified in KRS 186.050(3);

(g) Motor vehicles used in the transportation of coal or coal by-products under cooperative agreements pursuant to KRS 177.979 shall be exempt from the payment of the decal fee as set forth in this section and the registration fee as set forth in KRS 186.050(3) as long as the truck is driven over cooperative roads only while full. The Transportation Cabinet shall issue identifying license plates for those motor vehicles under cooperative agreements;

(h) All fees under this section shall be scheduled for payment and prorated pursuant to the provisions of KRS 186.051; and

(i) All revenues generated pursuant to this section shall be credited to a special account within the road fund called the "energy recovery road fund."

(5) Sixty percent (60%) of all energy recovery road funds shall be used by the Department of Highways for construction, maintenance, and repair of the state-maintained portion of the extended weight coal or coal by-products haul road system.

(6) Forty percent (40%) of all energy recovery road funds shall be distributed to the fiscal court of those counties in which coal or coal by-products are transported for the sole purpose of construction, maintenance and repair of the county-maintained portion of the extended weight coal or coal by-products haul system. The distribution of funds to the counties shall be proportioned based on the miles of county roads on the extended weight coal or coal by-products haul system in each county compared to the total mileage of county roads in the total extended weight coal or coal by-products haul road system and the tons of coal or coal by-products transported over county roads on the extended weight coal or coal by-products haul system in each county compared to the total tons of coal or coal by-products transported over county roads

in the total extended weight coal or coal by-products haul road system.

(7) Nothing in this section shall be construed or administered to jeopardize the receipt of federal funds for highway purposes and the secretary of transportation shall not act in any manner which shall jeopardize federal highway funds or funds to be received by the Commonwealth. [~~In no event shall~~] This section ***shall not*** be construed to authorize any vehicle to operate on a federal interstate highway in excess of those limits prescribed in KRS 189.222. [~~Likewise, nothing in~~] This section shall ***not*** be construed to prohibit the Department of Highways from providing for the public safety and convenience of the traveling public on the highway.

(8) As soon as practical after the report is prepared and published pursuant to KRS 177.977 for any calendar year after 1985, the secretary shall add to or delete from the extended weight coal or coal by-products haul road system public highways or portions thereof based upon the criteria set out in this section. [~~However,~~] Deletion of a public road or portion ***of it*** [~~thereof~~] from the extended weight coal or coal by-products haul road system shall not affect the eligibility of ***the*** [~~such~~] roads for highway funds or programs applicable to the extended weight coal or coal by-products haul road system.

(9) A fiscal court or a governing body of a city of the first through fourth class or urban-county government may***,*** by resolution, make recommendation to the secretary of the Transportation Cabinet that certain roads or road segments in the county or corporate city limits pose inherent and definite hazards or special conditions and that the secretary shall meet with ***the*** [~~said~~] fiscal court or local governing body and take into consideration their concerns before adding to or deleting from the extended weight coal or coal by-products haul system.

(10) The secretary of the Transportation Cabinet ***may*** [~~is authorized to~~] promulgate administrative regulations pursuant to KRS Chapter 13A as [~~may be~~] necessary to administer the provisions of this section, KRS 177.9772, 177.979 and 189.230.

The Committee Amendment No. 1 to **SB 227** is as follows:

On page 4, line 16, after the word "through" and before the word "fourth" insert the word "***sixth***", and place an opening bracket "[" before and a closing bracket "]" after the word "fourth" and strike through the word "fourth".

SB 228, AN ACT relating to motor vehicle salvage dealers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:

As used in KRS 190.010, 190.030, 190.033, 190.040, 190.046, 190.053, 190.057, 190.058, 190.067 and 190.071:

(1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

  (a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

  (b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

  (c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

  (d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

  (e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.

(3) The term "motor vehicle dealer" shall not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles.

(5) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(6) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(7) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches***,*** ~~[and]~~ emergency vehicles***, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles***.

(8) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles. Motorcycles shall not include mopeds as defined in this section.

(9) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

(10) "Motor vehicle auction dealer" means any person who offers, negotiates, or attempts to negotiate a sale, purchase, or exchange of a motor vehicle that may be lawfully kept or offered for sale by or at public auction.

(11) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, that is self propelled, but shall not include farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

(12) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer.

(13) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(14) "Commission" means the Motor Vehicle Commission.

(15) "Commissioner" means the commissioner of the department.

(16) "Department" means the Department of Vehicle Regulation.

(17) "Licensor" means the commission.

(18) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances.

(19) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity.

(20) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.

(21) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b).

(22) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle

dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(23) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(24) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise.

Section 2. KRS 190.030 is amended to read as follows:

(1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, ***automotive recycling dealer,*** or a salesman of motor vehicles shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.

(2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.

(6) The license fee for a calendar year, or part thereof, shall be as follows:

(a) For new motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof, plus one hundred dollars ($100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) For used motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(c) For motor vehicle leasing dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(d) For restricted motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(e) For motorcycle dealers, one hundred dollars ($100) for each office, branch, or agent thereof.

(f) For motor vehicle manufacturers, one hundred dollars ($100); and for each factory branch in this state, one hundred dollars ($100).

(g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.

(h) For motor vehicle salesmen, ten dollars ($10).

(i) For factory representatives, or distributor branch representatives, one hundred dollars ($100).

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall indorse the change of location on the license without charge if it is within the same municipality, if the licensee meets the requirements set forth by the commission through administrative regulations and pays a fee of one hundred dollars ($100). A change of location to another municipality shall require a new license.

(8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse the change on the license without charge.

(9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars ($15,000), conditioned upon the applicant or

licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

SB 237, AN ACT relating to vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.350 is amended to read as follows:

(1) The operator of a vehicle about to be overtaken and passed shall give way to the right in favor of the overtaking vehicle[~~, upon audible signal being given by the overtaking vehicle,~~] if the overtaking vehicle is a motor vehicle [~~or bicycle~~].

(2) In all cases of meeting, passing, or overtaking of vehicles such assistance shall be given by the operator and occupants of each vehicle, respectively, to the other as the circumstances reasonably demand, in order to obtain clearance and avoid accidents.

Section 2. KRS 189.380 is amended to read as follows:

(1) ***A*** [~~No~~] person shall ***not*** turn a vehicle or move right or left upon a roadway until ***the*** [~~such~~] movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

(2) A signal indicating the intention to turn right or left shall be given continuously for not less than the last one hundred (100) feet traveled by the ***motor*** vehicle before the turn.

(3) ***A*** [~~No~~] bus driver shall ***not*** stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to traffic following the bus.

(4) All signals required ***for a motor vehicle*** [~~herein~~] shall be given by signal lamps or mechanical signal devices.

(5) A signal required for a vehicle that is not a motor vehicle may be given by either hand signals, signal lamps, or mechanical signal devices. The signal shall be given intermittently for the last fifty (50) feet traveled by the vehicle before the turn.

(6) Hand signals shall be executed in the following manner when operating a vehicle that is not a motor vehicle:

- ***(a) The hand and arm shall be extended horizontally from the left side of the vehicle to indicate a left turn;***
- ***(b) The arm shall be extended horizontally from the left or right side of the vehicle with the hand and arm extended upward from the elbow to indicate a right turn;***
- ***(c) The arm shall be extended horizontally with the hand and arm extended downward from the elbow from the left side of the vehicle to indicate a stop or decrease in speed.***

Section 3. The following KRS section is repealed:

189.410 Approaching curve or obstruction.

SJR 51, A JOINT RESOLUTION directing the secretary of the Transportation Cabinet to designate a portion of Kentucky Route 80 as the "Carl D. Perkins Parkway," and, rename the Green River Parkway the "William H. Natcher Parkway" and rename Interstate 24 in McCracken County after Henry Ward.

WHEREAS, Carl D. Perkins was a legend in his own time, and remains so to this day; and

WHEREAS, Carl D. Perkins served our Commonwealth and his country, as a member of the Kentucky General Assembly, a county and Commonwealth attorney, a member of the Armed Services in World War II, and a member of eighteen consecutive Congresses until his death on August 3, 1984; and

WHEREAS, the stories about the feats and accomplishments of Representative Carl D. Perkins, Congressman from east Kentucky, have become woven into the folklore of the mountains; and

WHEREAS, Carl D. Perkins never lost touch with his roots, and championed the causes of the poor and needy of Appalachia throughout his years as the powerful chairman of the House Committee on Education and Labor; and

WHEREAS, William H. Natcher was born in Bowling Green, Warren County, on November 11, 1909, and practiced law in that county after being admitted to the bar in 1934; and

WHEREAS, William H. Natcher was elected to the Eighty-third Congress on August 1, 1953, and has been reelected to each succeeding Congress; and

WHEREAS, William H. Natcher of Kentucky is now the powerful Chairman of the House Appropriations Committee of the United States Congress; and

WHEREAS, for many decades, William H. Natcher has served the citizens of his district and our great Commonwealth with distinction and honor; and

WHEREAS, Henry Ward of McCracken County has been a dedicated public servant who selflessly devoted his time and energy into improving the quality of life for the citizens of Western Kentucky and the entire Commonwealth; and

WHEREAS, Henry Ward's public life began in the 1930's when, as a young man, he worked as a reporter for the Paducah Sun Democrat and championed the fight to allow TVA to provide inexpensive electricity to rural Kentucky which led to the development of the Calvert City complex and uranium enrichment plant in McCracken County; and

WHEREAS, from 1934 through 1943 Henry Ward served as State Representative from McCracken County; and

WHEREAS, after running for Lieutenant Governor in 1943, Henry Ward continued his political career in 1945 when he was elected State Senator; and

WHEREAS, Henry Ward was appointed Kentucky Commissioner of Conservation in 1949, a post he held until 1956; and

WHEREAS, while serving as State Senator and later as the Commissioner of Conservation, Henry Ward fostered the early development of the state's resort park system, and is considered the "father" of the Kentucky's State Park System; and

WHEREAS, in 1960 Governor Bert Combs appointed Henry Ward, Kentucky Highway Commissioner, and, recognizing his knowledge and expertise, Governor Ned Breathitt re-appointed Henry Ward to oversee Kentucky's highways; and

WHEREAS, these years of devoted service rendered by Carl D. Perkins and William H. Natcher and Henry Ward deserve recognition by our august body;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes the important role that Carl D. Perkins and William H. Natcher and Henry Ward have played in the history and development of our great Commonwealth and hereby directs the Secretary of the Transportation Cabinet to designate Kentucky Route 80 from the Perry County - Leslie County line to the intersection with US 23 in Floyd County at the Watergap Post Office as the "Carl D. Perkins Parkway," and, to rename the Green River Parkway the "William H. Natcher Parkway," and, to rename Interstate 24 in McCracken County after "Henry Ward" and place appropriate signs.

Section 2. That the Clerk of the Senate is directed to transmit a copy of this Resolution to Secretary Don Kelly, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40601.

The Committee on State Government reported **HB 655, HB 866, HCR 33, HR 93, SB 225, SB 248, SB 281,** with Committee Substitute attached thereto, **SB 301, SCR 65** and **SB 74,** with Committee Amendments with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 655, AN ACT relating to the defense of employees by state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

(1) The state government shall provide for the defense of any employee by an attorney chosen by the state government agency by whom the employee is employed in any action in tort arising out of an act or omission occurring within the scope of his employment of which it has been given notice pursuant to subsection (2) of this section. The state government shall pay any judgment based thereon or any compromise or settlement of the action except as provided in subsection (3) of this section and except that the state government's responsibility under this section to indemnify an employee shall be subject to the limitations contained in KRS 44.070.

(2) Upon receiving service of a summons and complaint in any criminal action or action in tort brought against him, an employee shall, within ten (10) days of receipt of service, give written notice of the action to the executive authority of the state government agency by which he is employed.

(3) The state government may refuse to pay a judgment or settlement in any action against an employee, or if the state government pays any claim or judgment against any employee pursuant to subsection (1) of this section, it may recover from the employee the amount of the payment and the costs to defend if:

(a) The employee acted or failed to act because of fraud, malice, or corruption;

(b) The action was outside the actual or apparent scope of his employment;

(c) The employee willfully failed or refused to assist the defense of the cause of action, including the failure to give notice to the executive authority of the state government agency pursuant to subsection (2) of this section;

(d) The employee compromised or settled the claim without the approval of the executive authority of the state government agency employing him.; or

(e) The employee obtained private counsel without the consent of the state government agency employing him, in which case, the state government may also refuse to pay any legal fees incurred by the employee.

HB 866, AN ACT relating to tax administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management and Economic Analysis established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.390 and 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The evaluation of revenue projections relative to proposed revenue bond issues;

(f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;

(g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

(h) ***The tax administrative function of utilizing tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information that will assist the Revenue Cabinet in performing its tax administrative functions.***

(i) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management and Economic Analysis shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management and Economic Analysis shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management and Economic Analysis shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 2. KRS 131.020 is amended to read as follows:

(1) The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the Secretary. The Office of the Secretary shall include such principal assistants and personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of his office;

(b) Department of Property Taxation. The Department of Property Taxation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuating the property of public service companies, and administering intangible taxes;

(c) Department of Tax Compliance. The Department of Tax Compliance shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, providing data services, conducting audits, providing liaison with federal and state agencies, rendering taxpayer assistance, collecting delinquent taxes, and providing word processing services;

(d) Department of Administrative Services. The Department of Administrative Services shall be headed by a commissioner. The functions and duties of the department shall include reviewing audits, conducting conferences, issuing final rulings, administering taxpayer protests, establishing Revenue Cabinet tax policies, representing the Revenue Cabinet in legal and administrative actions, providing management analysis, preparing publications, and providing personnel and fiscal services.

(2) The functions and duties of the Revenue Cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the Revenue Cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the Department of Tax Compliance and the Department of Administrative Services, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) The Revenue Cabinet shall be organized for administrative convenience into divisions in accordance with KRS Chapter 12.

(4) The Revenue Cabinet shall fully cooperate with and make ***tax*** information ~~[on tax receipts]~~ available to the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis as necessary for the office to perform

the tax administration function established in KRS 42.410 [~~its duties~~].

Section 3. KRS 131.030 is amended to read as follows:

(1) The Revenue Cabinet shall exercise all administrative functions of the state in relation to the state revenue and tax laws, ***except those administrative tax functions that are statutorily delegated to other governmental agencies or officers of other governmental agencies,*** the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the Revenue Cabinet may commit administration of certain taxes.

(2) The Revenue Cabinet shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The Revenue Cabinet shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The Revenue Cabinet is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

Section 4. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Revenue Cabinet.

(1) The cabinet shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and cabinet employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The cabinet shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the cabinet. Such statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the cabinet distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the cabinet. The taxpayer shall be informed of such right prior to conduct of any conference or hearing.

(4) The cabinet shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the cabinet. The cabinet may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of such cabinet recording or a transcript thereof as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the cabinet is due to the taxpayer's reasonable reliance on written advice from the cabinet, the taxpayer shall be relieved of any penalty or interest with respect thereto provided the taxpayer requested such advice in writing from the cabinet and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the cabinet did not subsequently rescind or modify the advice in writing and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the cabinet's earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the cabinet by the Auditor of Public Accounts relating to the cabinet's compliance with the provisions of KRS 131.041 to 131.081.

(8) The cabinet shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the cabinet of the amounts owed. The cabinet may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The cabinet shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the cabinet has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The cabinet shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Revenue Cabinet personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or

return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the cabinet thereof in writing and provides a copy of such extension at the time and in the manner which the cabinet may require.

(12) The cabinet shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the cabinet, provided the erroneous lien or levy was caused by cabinet error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the cabinet and provided information or documentation sufficient to establish his or her position. When the cabinet releases any such erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation thereof, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The cabinet shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by cabinet employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the cabinet. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any such proceeding brought by a taxpayer is ruled frivolous by the board, the cabinet shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any information or documents attached thereto. Except as provided by KRS 131.190, no information pertaining to such returns, reports, or the affairs of a person's business shall be divulged by the cabinet ***or the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis*** to any person.

Section 5. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employee of the Revenue Cabinet, ***or employee in the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis,*** member of a county board of assessment appeals, property valuation administrator or employee thereof, or any other person, shall divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet, ***or any employee of the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis,*** from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws ***or in any action challenging state or federal tax laws***.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal arrangements whereby the cabinet shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet by any licensee under the gasoline excise tax law may be made public by the cabinet.

(4) Notwithstanding the above, information received from the Internal Revenue Service shall not be made available to any other agency ***or office within any agency*** of state government ***that does not perform a tax administrative function***, any county, any city, or any other state.

HCR 33, A CONCURRENT RESOLUTION confirming the appointment of Robert T. McCowan to the Board of the Kentucky Long-Term Policy Research Center.

WHEREAS, pursuant to KRS 7B.030, the Governor has appointed Robert T. McCowan as an at-large member of the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 1995; and

WHEREAS, at-large appointments to the Kentucky Long-Term Policy Research Center Board are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of January 4, 1994, the Governor has delivered Mr. McCowan's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Robert T. McCowan meets the requirements established in KRS 7B.030 for membership on the Kentucky Long-Term Policy Research Center Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate hereby confirm the appointment of Robert T. McCowan to the Board of the Kentucky Long-Term Policy Research Center for a term ending October 6, 1995.

Section 2. That the Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Brereton C. Jones, Room 100, State Capitol and Robert T. McCowan, 2956 Four Pines, Lexington, Kentucky 40502, in writing, of the General Assembly's action.

HR 93, A RESOLUTION urging the Congress of the United States to intervene on behalf of missing in action personnel.

WHEREAS, while nearly 600 prisoners of war were released under the 1973 peace settlement; and

WHEREAS, the fate of additional hundreds of prisoners of war and missing-in-action personnel remains a mystery; and

WHEREAS, 20 Kentuckians are among the unaccounted servicemen who served their nation and their Commonwealth in southeast Asia; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the Congress of the United States to continue to investigate claims by Vietnamese military leaders alleging the incarceration of more than 1200 American service personnel during the Vietnam War.

Section 2. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the Congress of the United States to affect full disclosure of all government documentation regarding prisoners of war and missing in action personnel from the Vietnam War.

Section 3. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the Congress of the United States to consider the fate of missing service personnel who participated in the Vietnam War.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the President of the United States, Kentucky's congressional delegation, and to the Secretary of Defense.

SB 225, AN ACT relating to the Central State Hospital Recovery Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 4 of this Act:

(a) "Authority" shall mean the Central State Hospital Recovery Authority;

(b) "Board" shall mean the governing board of the authority;

(c) "Hospital" shall mean the Old Central Kentucky State Hospital in Jefferson County, Kentucky; and

(d) "Public entity" shall mean the fiscal court of Jefferson County, the city of Anchorage, an agency of either that county or that city, or an agency created by agreement between that county and city under KRS 65.210 to 65.300.

(2) There is created an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Central State Hospital Recovery Authority. The purpose of the authority shall be to perform essential governmental and public functions and purposes relating to the management, control, and use of the lands of the Old Central Kentucky State Hospital in Jefferson County, Kentucky.

(3) The authority shall be governed by a board consisting of the secretary of the Finance and Administration Cabinet, or his designee, who shall be chairman of the board, and five (5) members, two (2) of whom shall be appointed by the Governor from the state at large, and three (3) of whom shall be residents of Jefferson County, appointed by the county judge/executive of Jefferson County. One (1) of the three (3) members appointed by the county judge/executive shall be a resident of the city of Anchorage, Kentucky. Appointed members shall have four (4) year terms and may be reappointed.

(4) The board shall meet at the call of the chairman. A quorum of the board for the purpose of transacting business shall be four (4) members of the board.

(5) Appointed members of the board shall serve without compensation or other reimbursement for their services, KRS 12.070(2) notwithstanding.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The board shall have all powers necessary and convenient to carry out its purposes, including the power to:

(1) Hold as trustee for the benefit of the people of Kentucky the lands of the hospital, custody and control of which, in that fiduciary capacity, are hereby transferred to the board. The lands shall remain in the board's trusteeship until they are disposed of in accordance with subsection (5) of this section;

(2) Solicit and accept appropriations, gifts, or grants from any public or private source, within or outside the Commonwealth, and expend those funds for any lawful purpose in order to administer, operate, maintain, or improve the lands of the hospital. The authority's funds shall be invested in accordance with KRS 42.500.

(3) Develop and revise a master plan for the use of the hospital lands in the public interest, and require that uses of the land, and any buildings or other improvements located on the land, comply with the master plan adopted by the board;

(4) Subject to the availability to the authority of sufficient funds:

(a) Contract through the Finance and Administration Cabinet, under KRS Chapters 45A and 56, for the removal of asbestos from buildings located on the hospital lands and for any other remedial action that may be needed to eliminate any hazardous or potentially hazardous, environmentally related condition or problem affecting the hospital lands;

(b) Demolish any building or other structure located on the hospital grounds; and

(c) Renovate, remodel, repair, or reconstruct any building or other structure, located on the hospital grounds, that the authority deems to be of historic interest or of contemporary use consistent with community needs;

(5) In the sound exercise of its discretion, convey the hospital land in fee simple, or lease the land for a period of not more than ninety-nine (99) years, subject to terms and conditions that the board determines to be in the public interest, to a public entity for maintenance and use in accordance with the master plan adopted by the board under subsection (3) of this section. The secretary of the Finance and Administration Cabinet, with the approval of the Governor, shall execute the lease or deed on behalf of the Commonwealth, as required by KRS 45A.045(4);

(6) Employ, without regard to KRS Chapter 18A, or contract, in accordance with KRS Chapter 45A, for the services of accountants, attorneys, architects, engineers, contractors, and other consultants and employees that the board determines are required, and fix and pay their compensation from funds available to the board; and

(7) Promulgate administrative regulations, in accordance with KRS Chapter 13A, that the board deems necessary to facilitate the implementation of its powers under this section, adopt bylaws governing the internal operating policies and procedures of the board, and do all other things, perform all other acts, and take all other action the board determines to be necessary to carry out its purposes and authority under Sections 1 to 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The authority shall be attached, for administrative and reporting purposes, to the Finance and Administration Cabinet, which shall provide administrative services and clerical assistance to the board. The secretary of the Finance and Administration Cabinet shall designate an employee of the cabinet to serve as secretary of the board to keep the board's minutes and other official records.

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 3 of this Act shall expire, and the authority shall be abolished, six (6) calendar months after the date of execution of a conveyance of the hospital property by deed or lease as authorized by Section 2 of this Act.

SB 248, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "state agency" means any department or administrative body of state government, as defined in KRS 12.010, that is subject to the requirements of Title VI of the federal Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., and regulations promulgated thereunder.

(2) Each state agency shall:

(a) Develop a Title VI implementation plan by January 1, 1995. If required by Title VI or regulations promulgated thereunder, the implementation plan shall:

1. Be developed with the participation of protected beneficiaries; and

2. Include Title VI implementation plans of any subrecipients of federal funds through the state agency;

(b) Submit a copy of the implementation plan to the Auditor of Public Accounts and the Human Rights

Commission; and

(c) Submit annual Title VI compliance reports and any implementation plan updates to the Auditor of Public Accounts and the Human Rights Commission by July 1, 1995, and each July 1 thereafter.

(3) The Auditor of Public Accounts shall prepare a report on the actions which state agencies are required to take to implement Title VI, and a report summarizing and evaluating, relative to the required implementation actions, the initial state agency implementation plans and including audit findings from the Auditor of Public Accounts field reviews. The Auditor of Public Accounts shall transmit the reports to the Governor, the Human Rights Commission, the Legislative Research Commission, and each state agency. The Auditor of Public Accounts may prescribe the report format, procedure, and time frame for purposes of complying with this subsection. The prescribed format, procedure, and time frame shall be established by administrative regulation pursuant to KRS Chapter 13A.

(4) In addition to being available from the promulgating state agency, all implementation plans, reports, and updates required by and submitted under subsection (2) of this section shall be available for inspection and copying under KRS 61.870 to 61.884 in the offices of the Auditor of Public Accounts.

(5) In any annual audit made of a state agency under KRS 43.050, the Auditor of Public Accounts shall determine whether the state agency has complied with subsection (2) of this section and shall include the determination in the audit report.

(6) To the extent permitted by federal law or regulation, any increased costs incurred by a state agency, the Auditor of Public Accounts, or the Human Rights Commission under this section shall be paid from any available federal funds that may be used for implementation of Title VI of the federal Civil Rights Act of 1964.

SB 281, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) Each city and school district board shall provide the clerk of the county in which the city or school district is located with whatever information the county clerk requires to maintain a roster of voters who are eligible to vote in city and school board elections. This information shall be provided to the county clerk not later than sixty (60) days preceding the date of a primary election in each year in which an election for city officers or school board members shall be held in that county.

(2) Each county clerk shall code all registered voters in that county in such a manner that precinct election officers may determine their eligibility to vote in city and school board elections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

The Attorney General, the Secretary of State, and the State Board of Elections, by mutual agreement, may petition Franklin Circuit Court to declare that an election crisis exists in a county where there is evidence of sufficient malfeasance, nonfeasance, or criminal activity to jeopardize a free and equal election in that county and to authorize the State Board of Elections to assume responsibility for the management of the election in that county. If Franklin Circuit Court makes that declaration and grant of authority, the State Board of Elections shall appoint an election manager for that county to serve for the duration of the election cycle and the county clerk, county board of elections, precinct election officers, and any other person participating in the election process in that county shall be subject to the direction of the election manager.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

The State Board of Elections may declare a county to be a preclearance county for election purposes when that county has a history of voter fraud, noncompliance with election laws, or voter complaints about the integrity of a particular election. In a county designated as a preclearance county, all decisions of the county board of elections shall be reported to the State Board of Elections for its review. The failure of a county board of elections of a preclearance county to submit its decisions to the State Board of Elections for its review shall constitute a prima facie case for appointment of an election manager under Section 2 of this Act. The State Board of Elections may require a preclearance county to submit evidence or justification as required by the state board which is necessary to evaluate the county board's decisions. A county designated as a preclearance county shall retain that designation until it is removed by the State Board of Elections.

Section 4. KRS 39.409 is amended to read as follows:

(1) In the event of occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39.400 or 39.401, the Governor may declare that a state of emergency exists, and the Governor shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:

(a) To enforce all laws, rules, and regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and helpers in the state;

(b) To seize, take, or condemn property for the protection of the public or at the request of the President, the Armed Forces or the Federal Emergency Management Agency of the United States, including:

1. All means of transportation and communication;
2. All stocks of fuel of whatever nature;
3. Food, clothing, equipment, materials, medicines, and all supplies; and
4. Facilities, including buildings and plants;

(c) To sell, lend, give, or distribute all or any such property among the inhabitants of the state and to account to the State Treasurer for any funds received for the property;

(d) To make compensation for the property so seized, taken, or condemned;

(e) To exclude all nonessential personnel from the scene of the emergency, and to command persons or groups assembled at the scene to disperse;

(f) To declare curfews and establish the limits of same;

(g) To prohibit or limit the sale or consumption of goods or commodities for the duration of the emergency;

(h) To perform and exercise other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population***; and***

(i) Upon the recommendation of the Secretary of State, to declare by executive order a different time or place for holding state elections in an election district for which a state of emergency has been declared for part or all of the election district.

(2) In the event of occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39.400 or 39.401, the county judge/executive of a county other than an urban-county government, mayor of an urban-county government, or mayor of a city, or their designees as provided by ordinance of the affected county, city, or urban-county may declare that a state of emergency exists, and thereafter shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:

(a) To enforce all laws, rules, and regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces in the affected county, city, or urban-county;

(b) To exclude all nonessential personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse;

(c) To declare curfews and establish the limits of same;

(d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services;

(e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as found necessary for protection of public health and safety or for continuation of essential public services.

Section 5. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including legal counsel ***and a training officer to provide assistance to the county clerks and the county boards of elections in their training of precinct election officers*** [~~as deemed necessary by the board~~].

(3) The board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) For each primary election, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f) Purchase, lease or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g) Secure information from any source which may assist the board in carrying out the purposes of this section;

(h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable price. The board shall not furnish precinct lists to persons who intend to use the lists for commercial use.

Section 6. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. ***The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.***

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense ***or any felony, unless the person's civil rights have been restored by the Governor***. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, ***the county board of elections shall select*** one (1) judge at each voting place ***from each political party's list*** [~~shall be selected from each list~~], and the ***county board shall select the*** sheriff ***from one (1) political party's*** [~~shall be chosen from one (1)~~] list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. ***The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.***

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(7) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(8) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment.

An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled ***by the county board with alternate precinct election officers*** ~~[in the same manner as provided for original appointments]~~ and the person appointed to fill the vacancy shall be of the same political party as ***the vacating officer*** ~~[his predecessor]~~, except for emergency appointments made as provided in subsection (5) of this section.

(9) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(10) Each election officer shall be paid a minimum of ***sixty*** ~~[forty-nine]~~ dollars ***($60)*** ~~[($49)]~~ per day, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the two (2) judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the two (2) judges for delivering election returns shall be paid by the county.

Section 7. KRS 117.055 is amended to read as follows:

Subject to KRS 117.0551 to 117.0555:

(1) Each county shall be divided into election precincts by the county board of elections. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of election shall establish precincts so that no boundary of a precinct crosses the boundary of:

(a) The Commonwealth;

(b) A county or urban-county;

(c) A congressional district;

(d) A state senatorial district;

(e) A state representative district; or

(f) A justice of the peace or county commissioner's district established under KRS Chapter 67.

(2) The county board of elections shall have the authority to draw precinct lines so as to enable more than one (1) precinct to vote at one (1) location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception, they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. ***However, the State Board of Elections shall not remit to a county the expenses of an election for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters. The State Board of Elections shall provide by administrative regulation under what circumstances an exception shall be granted.***

(3) No election precinct shall be created, divided, abolished or consolidated or the boundaries therein changed prior to any primary election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State.

(4) The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county.

(5) A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the State Board of Elections, and any changes in boundaries thereafter made shall also be filed with the State Board of Elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(6) If the county board of elections fails to perform any of the duties required by KRS 117.055 to 117.0555 and KRS

117.0557:

(a) The State Board of Elections or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform the duty. Appeals may be taken to the Court of Appeals by either party; and

(b) The State Board of Elections shall not submit claims for payments to the county under KRS 117.343 and 117.345 until the State Board of Elections determines in writing that the duty has been performed.

(7) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial, and municipal boundaries.

Section 8. KRS 117.065 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 of each year, establish the voting place for each precinct. If a change becomes necessary after that date, notice of change shall be published pursuant to KRS Chapter 424. If a change becomes necessary on election day, notice shall be posted at the former voting place. The expense of renting voting places, for which rent of not less than twenty dollars ($20) shall be paid, shall be paid in the same manner as other election expenses.

(2) The county board of elections shall have the authority to designate as voting places, without cost to the board, buildings constructed in whole or in part with tax revenues.

(3) The county board of elections shall make every reasonable effort to designate as voting places only those places which are accessible to all eligible voters, including those with physical limitations and the elderly.

(4) The county board of elections shall ensure that each precinct polling place in the county has immediate access to a telephone within the polling place on the day of any election.

Section 9. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for ***a paper*** [~~an~~] absentee ballot containing a verified statement that his inability to appear is due to age, infirmity, or illness. The request for the application may be made by telephone, facsimile machine, mail, or in person. Upon receipt of the application, the clerk shall immediately mail to the voter ***a paper*** [~~an~~] absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 10. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***a paper*** [~~an~~] absentee ballot. The application shall state that the emergency condition occurred within the seven (7) day period and shall be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or children of the voter. If the voter has no spouse, parents or children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***a paper*** [~~an~~] absentee ballot.

Section 11. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for an absentee ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no ***paper*** absentee ballots shall be mailed to ***a voter who resides within the county in which he is registered*** [~~an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open~~]. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***a paper*** [~~an~~] absentee ballot as provided in this section and who is properly registered as stated in his application. [~~Application for an absentee ballot shall be made as follows:~~]

(a) ***The following voters may apply to cast their votes by paper absentee ballot at any time not later than the close of business hours seven (7) days before the election:***

1. Voters permitted to vote by paper absentee ballot pursuant to KRS 117.075 or KRS 117.077;

2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;

3. Students and other voters who live outside the state but who are still eligible to vote in this state; and

4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime.

Any ***other*** qualified voter in any county ***who is not permitted to vote by paper absentee ballot*** who shall be absent from the county on any election day [~~or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the crime~~] may, at any time not less than the close of normal business hours ***on any of the twelve (12) working*** [~~seven (7)~~] days before the election, make application in person [~~or by mail~~] to the county clerk ***to vote on a voting machine in the county clerk's office or other place designated by the county board of elections*** [~~for an absentee ballot~~]. Requests for an application for ***a paper*** [~~an~~] absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for ***a paper*** [~~an~~] absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for ***a paper*** [~~an~~] absentee ballot to ***a*** [~~the~~] voter ***permitted to vote by paper absentee ballot*** who appears in person to request the application, or shall mail the application to a voter ***permitted to vote by absentee ballot*** who requests the application by telephone, facsimile machine, or mail. The ***paper absentee ballot*** application shall be restricted to use of the voter or the spouse, parents, or children of the voter;

(b) Any qualified voter in any county who finds, within the last ***twelve (12) working*** [~~seven (7)~~] days preceding an election, that he shall be unexpectedly absent from the county on election day may apply ***to*** [~~for and~~] vote ***on a voting machine in the county clerk's office or other place designated by the county board of elections*** [~~by means of an absentee ballot~~] up to the close of normal business hours on the day before the election. The voter shall complete and sign, under penalty of perjury, an affidavit of emergency stating that he had no knowledge of his absence prior to ***the twelve (12) working*** [~~seven (7)~~] days before the election. The application shall be restricted to the use of the voter and the absentee ballot shall be executed in the office of the county clerk during normal business hours.

(c) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces***,*** and overseas citizens, may apply for ***a paper*** [~~an~~] absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for ***a paper*** [~~an~~] absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt; and

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote ***on a voting machine in the county clerk's office or other place designated by the county board of elections up to the close of normal business hours on the day before the election*** [~~by absentee ballot~~]. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment less than ***twelve (12) working*** [~~seven (7)~~] days prior to the election, such officer may vote ***on a voting machine*** [~~by absentee ballot~~] in the county clerk's office up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e) The members of the county board of elections or their designees who provide equal representation of both political parties shall serve as precinct election officers for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections. The members of the county board of elections or their designees shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election.

(f) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(2) The clerk shall type the name of the voter ***permitted to vote by paper absentee ballot*** on the application form for that person's use and no other. The ***paper absentee ballot*** application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of ***the reason the person cannot vote in person*** [~~absence~~] on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for ***a paper*** [~~an~~] absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive ***a paper*** [~~an~~] absentee ballot, he shall mail to the voter ***a paper*** [~~an~~] absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) ***Paper*** absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the

voter within three (3) days of the receipt of the printed ballots; and ***paper*** absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and ten (10) days prior to each runoff primary.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received ***a paper*** [~~an~~] absentee ballot but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his ***paper*** absentee ballot and vote in person. He shall return his ***paper*** absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the ***paper*** absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent ***paper*** absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 12. KRS 117.086 is amended to read as follows:

(1) The voter returning his ***paper*** absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the ***paper*** ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***a paper*** [~~an~~] absentee ballot by mail under the provisions of KRS 117.085***,*** and all members of county boards of elections and precinct election officers qualified to vote ***prior to the election*** [~~by absentee ballot~~] under the provisions of KRS 117.085, shall vote at the main office of the county clerk prior to the day of election. The clerk may provide for such voting by [~~absentee ballot or may use~~] the voting equipment in general use in the county either at the precinct***,*** [~~or~~] the equipment as may be used to tabulate absentee ballots, ***or any other voting equipment approved by the State Board of Elections for use in Kentucky,*** except as follows:

(a) Any voter qualifying to vote in the clerk's office as provided by this subsection who receives assistance to vote shall use the typed inner and outer envelopes as required in subsection (1) of this section.

(b) Any voter qualifying to vote in the clerk's office as provided by this subsection whose qualifications are challenged by any clerk or deputy shall vote in the manner required in subsection (1) of this section and shall complete an "Oath of Voter" affidavit [~~which shall be inserted in the outer envelope along with the inner envelope~~].

(3) ***When*** [~~If~~] the clerk uses general voting equipment [~~or absentee ballot tabulating equipment~~] as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office shall sign an "Absentee Ballot Signature Roster."

(4) The clerk shall designate a location within his office where the ballots shall be cast secretly. In counties containing a city of the first or second class, the county clerk may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6) The clerk shall deposit all of the returned ***paper*** absentee ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.

(7) The clerk shall keep a list of all persons who return their ***paper absentee*** [~~mail~~] ballots or cast their ballots in the clerk's office and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of ***votes cast by paper absentee ballots and on the voting machine in the county clerk's office or other place designated by the county board of elections*** [~~absentee ballots~~] cast in any election as a part of the official returns of the election.

Section 13. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent basis, any person voting by means of ***a paper*** [~~an~~] absentee ballot ***or on the voting machine in the county clerk's office or other place designated by the county board of elections*** as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) ***A person shall not assist more than two (2) voters, including those casting paper absentee ballots or voting on the machine in the county clerk's office or other place designated by the county board of elections in any one (1) election.*** Any person who assists another person in voting by use of ***a paper*** [~~an~~] absentee ballot ***or on a voting machine in the county clerk's office or other place designated by the county board of elections*** shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all ***paper*** absentee ballots shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

Section 14. KRS 117.087 is amended to read as follows:

(1) The challenge of ***a paper*** [~~an~~] absentee ballot shall be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the ***paper*** absentee ballots ***and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections***. The board may appoint a central [~~absentee~~] ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board shall meet at the clerk's office to count the ***paper*** absentee ballots ***and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections***. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of ***the*** [~~absentee~~] ballots. The board shall open the boxes containing ***paper*** absentee ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned ***paper*** absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter ***who cast a paper absentee ballot*** is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the ***paper absentee*** ballots in the box. The board shall open the ballot box, remove the ***paper*** absentee ballots from the inner envelopes, and count the ballots.

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office as provided for in KRS 117.086 and a total of all [~~absentee~~] ballots shall be made and recorded on the form provided by the State Board of Elections.

(7) The county board of elections shall make public the [~~absentee~~] ballot results ***determined as provided in this section*** after 6 p.m.

Section 15. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of

enforcement to all ***members of county boards of elections*** [~~county clerks, sheriffs~~], county attorneys, Commonwealth's attorneys and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. ***The training provided by the county board of elections shall include, but not be limited to, the following:***

(a) Operation of the voting machine or ballot cards;

(b) Posting of necessary signs and notices at the polling place;

(c) Voter assistance;

(d) Maintaining precinct rosters;

(e) Confirmation of a voter's identity;

(f) Challenge of a voter;

(g) Completing changes of address or name at the polling place;

(h) Qualifications for voting in a primary election;

(i) Electioneering and exit polling;

(j) Write-in voting procedures;

(k) Persons who may be in the voting room;

(l) Election violations and penalties;

(m) Assistance which may be provided by law enforcement officers; and

(n) Election reports..

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ***ten*** [~~five~~] dollars ***($10)*** [~~($5)~~] for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 16. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place or within a distance of five hundred (500) feet of ***a county clerk's office or*** any entrance to a building in which a voting machine is located ***or in which absentee votes may be cast prior to election day*** if that entrance is unlocked and is used by voters ***during the period that absentee votes may be cast or*** on election day, unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a countywide basis a greater distance from the polling place within which electioneering may be permitted, but in no case shall electioneering be allowed within five hundred (500) feet of ***a county clerk's office or*** any entrance to a building in which a voting machine is located ***or in which absentee votes may be cast*** if that entrance is unlocked and is used by voters. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) ***Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may*** [~~The election sheriff, under the supervision of the precinct election judges, shall~~] enforce the election laws and maintain law and order at the polls and within ***five hundred (500)*** [~~fifty (50)~~] feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in schoolchildren a respect for the democratic principles of voting by conducting in any county a mock election for schoolchildren in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 17. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form.

(3) Upon making and filing with the judges the oath, the voter shall retire to the voting machine, with the judges, and one of the judges shall, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of that employer, an officer or agent of that voter's union, or a candidate shall not assist the voter, nor shall a person assist more than two (2) voters ***in any one (1)*** ~~[on the date of any]~~ primary, regular, or special election. ***A precinct election officer, county clerk, or employee of a county clerk shall not assist a voter in casting a ballot, either on the day of an election or by absentee voting prior to election day.***

(4) The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall enter the voting booth and the one sworn shall operate the machine for the disabled or blind voter as he directs.

(5) Voters who require assistance on a permanent basis due to blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk who shall enter such certification on the voter's registration record. The State Board of Elections shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance permanently without signing voter assistance forms at the precinct.

(6) Voting booth shall mean an area in which a voter casts his vote which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance.

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12) The election sheriff shall be responsible for reporting violations of this section.

Section 18. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the state board of elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars ($255) for each precinct in the county. ***However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.*** All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails

to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of such county; and payments to any county shall be terminated whenever such county fails to pay any part of the rentals required for any effective period of the lease ***or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2)***.

Section 19. KRS 117.995 is amended to read as follows:

(1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.

(3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be guilty of a Class A misdemeanor.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a ***Class A misdemeanor for the first offense and a*** Class D felony ***for each subsequent offense***.

(5) Any person who signs a name other than his own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his name, or any person who applies for the ballot for the use of anyone other than himself or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.

(6) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day, after he has been duly notified of the provisions by ***any precinct election officer, county clerk, deputy county clerk, or other law enforcement official*** [~~the sheriff of the election precinct~~], shall, for each offense, be guilty of a Class A misdemeanor.

(7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate ***or incomplete*** voter assistance form ***or fails to complete a voter assistance form when required*** shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

(8) The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

Section 20. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, primary, and runoff primary elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

(5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.

(6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

(7) All public schools shall be closed on the day of any primary, runoff primary, or regular election. Any public school which is used as a polling place for a special election shall be closed on the day of a special election.

Section 21. KRS 158.060 is amended to read as follows:

(1) Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. ***School shall be closed on the day of an election.*** The legal holidays designated by the State Board for Elementary and Secondary Education to be observed may include the first Tuesday after the first Monday

in November of each year ***and the first Tuesday after the fourth Monday in May of each year*** and shall be counted as school days. Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the chief state school officer. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the noninstructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of noninstructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's six (6) hour instructional day, or the time teachers are required to remain at school after the students are dismissed. Except for handicapped children and children attending the primary school program who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the State Board for Elementary and Secondary Education, a minimum of six (6) hours of actual school work shall constitute a school day. Kindergarten programs may be operated for less than six (6) hours without state board approval. The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.

(2) Teachers shall be provided additional time for nonteaching activities. The nonteaching time shall be used to provide teachers opportunities for professional development activities as provided in KRS 156.095, instructional planning, school based shared decision making as provided in KRS 160.345, curriculum development, and outreach activities involving their students' families and the community.

Section 22. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including at least one hundred seventy-five (175) instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the State Board for Elementary and Secondary Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095 and 158.720. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

(b) Local disaster which would endanger the health or safety of children; and

(c) Mourning when so designated by the local board of education and approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer.

(4) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. ***School shall be closed on the day of an election and that day may be designated as one (1) of the days to be used for in-service school activities or professional meetings.***

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the

outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts for the 1990-1991 and 1991-1992 school years for continuing education. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. The chief state school officer shall recommend to the Division of School Finance of the Office of Education Accountability by June 30, 1991, a method for funding continuing education for these students through the state-supported funding program.

(8) Notwithstanding any other statute, each school term shall include at least the minimum number of instructional days required by this section. However, for the school years 1992-93 and 1993-94, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional development for teachers if the following conditions are met:

- (a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and
- (b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education.

The Committee Substitute to **SB 281** is as follows:

SB 281, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) Each city and school district board shall provide the clerk of the county in which the city or school district is located with whatever information the county clerk requires to maintain a roster of voters who are eligible to vote in city and school board elections. This information shall be provided to the county clerk not later than sixty (60) days preceding the date of a primary election in each year in which an election for city officers or school board members shall be held in that county.

(2) Each county clerk shall code all registered voters in that county in such a manner that precinct election officers may determine their eligibility to vote in city and school board elections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

The Attorney General, the Secretary of State, and the State Board of Elections, by mutual agreement, may petition Franklin Circuit Court to declare that an election crisis exists in a county where there is evidence of sufficient malfeasance, nonfeasance, or criminal activity to jeopardize a free and equal election in that county and to authorize the State Board of Elections to assume responsibility for the management of the election in that county. If Franklin Circuit Court makes that declaration and grant of authority, the State Board of Elections shall appoint an election manager for that county to serve for the duration of the election cycle and the county clerk, county board of elections, precinct election officers, and any other person participating in the election process in that county shall be subject to the direction of the election manager.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

The State Board of Elections may declare a county to be a preclearance county for election purposes when that county has a history of voter fraud, noncompliance with election laws, or voter complaints about the integrity of a particular election. In a county designated as a preclearance county, all decisions of the county board of elections shall be reported to the State Board of Elections for its review. The failure of a county board of elections of a preclearance county to submit its decisions to the State Board of Elections for its review shall constitute a prima facie case for appointment of an election manager under Section 2 of this Act. The State Board of Elections may require a preclearance county to submit evidence or justification as required by the state board which is necessary to evaluate the county board's decisions. A county designated as a preclearance county shall retain that designation until it is removed by the State Board of Elections.

Section 4. KRS 39.409 is amended to read as follows:

(1) In the event of occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39.400 or 39.401, the Governor may declare that a state of emergency exists, and the Governor shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:

- (a) To enforce all laws, rules, and regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and helpers in the state;
- (b) To seize, take, or condemn property for the protection of the public or at the request of the President, the Armed Forces or the Federal Emergency Management Agency of the United States, including:

1. All means of transportation and communication;

2. All stocks of fuel of whatever nature;

3. Food, clothing, equipment, materials, medicines, and all supplies; and

4. Facilities, including buildings and plants;

(c) To sell, lend, give, or distribute all or any such property among the inhabitants of the state and to account to the State Treasurer for any funds received for the property;

(d) To make compensation for the property so seized, taken, or condemned;

(e) To exclude all nonessential personnel from the scene of the emergency, and to command persons or groups assembled at the scene to disperse;

(f) To declare curfews and establish the limits of same;

(g) To prohibit or limit the sale or consumption of goods or commodities for the duration of the emergency;

(h) To perform and exercise other functions, powers, and duties deemed necessary to promote and secure the safety and protection of the civilian population***; and***

(i) Upon the recommendation of the Secretary of State, to declare by executive order a different time or place for holding state elections in an election district for which a state of emergency has been declared for part or all of the election district.

(2) In the event of occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39.400 or 39.401, the county judge/executive of a county other than an urban-county government, mayor of an urban-county government, or mayor of a city, or their designees as provided by ordinance of the affected county, city, or urban-county may declare that a state of emergency exists, and thereafter shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:

(a) To enforce all laws, rules, and regulations relating to disaster and emergency response and to direct all local disaster and emergency response forces in the affected county, city, or urban-county;

(b) To exclude all nonessential personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse;

(c) To declare curfews and establish the limits of same;

(d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services;

(e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as found necessary for protection of public health and safety or for continuation of essential public services.

Section 5. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including legal counsel ***and a training officer to provide assistance to the county clerks and the county boards of elections in their training of precinct election officers*** [~~as deemed necessary by the board~~].

(3) The board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) For each primary election, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f) Purchase, lease or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g) Secure information from any source which may assist the board in carrying out the purposes of this section;

(h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable price. The board shall not furnish precinct lists to persons who intend to use the lists for commercial use.

Section 6. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. ***The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.***

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense ***or any felony, unless the person's civil rights have been restored by the Governor***. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, ***the county board of elections shall select*** one (1) judge at each voting place ***from each political party's list*** [~~shall be selected from each list~~], and the ***county board shall select the*** sheriff ***from one (1) political party's*** [~~shall be chosen from one (1)~~] list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. ***The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.***

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(7) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(8) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment.

An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled ***by the county board with alternate precinct election officers*** ~~[in the same manner as provided for original appointments]~~ and the person appointed to fill the vacancy shall be of the same political party as ***the vacating officer*** ~~[his predecessor]~~, except for emergency appointments made as provided in subsection (5) of this section.

(9) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(10) Each election officer shall be paid a minimum of ***sixty*** ~~[forty-nine]~~ dollars ***($60)*** ~~[($49)]~~ per day, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the two (2) judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the two (2) judges for delivering election returns shall be paid by the county.

Section 7. KRS 117.055 is amended to read as follows:

Subject to KRS 117.0551 to 117.0555:

(1) Each county shall be divided into election precincts by the county board of elections. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of election shall establish precincts so that no boundary of a precinct crosses the boundary of:

(a) The Commonwealth;
(b) A county or urban-county;
(c) A congressional district;
(d) A state senatorial district;
(e) A state representative district; or
(f) A justice of the peace or county commissioner's district established under KRS Chapter 67.

(2) The county board of elections shall have the authority to draw precinct lines so as to enable more than one (1) precinct to vote at one (1) location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception, they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. ***However, the State Board of Elections shall not remit to a county the expenses of an election for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters. The State Board of Elections shall provide by administrative regulation under what circumstances an exception shall be granted.***

(3) No election precinct shall be created, divided, abolished or consolidated or the boundaries therein changed prior to any primary election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of KRS 117.055 to 117.0555 and KRS 117.0557 later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State.

(4) The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county.

(5) A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the State Board of Elections, and any changes in boundaries thereafter made shall also be filed with the State Board of Elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(6) If the county board of elections fails to perform any of the duties required by KRS 117.055 to 117.0555 and KRS

117.0557:

(a) The State Board of Elections or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform the duty. Appeals may be taken to the Court of Appeals by either party; and

(b) The State Board of Elections shall not submit claims for payments to the county under KRS 117.343 and 117.345 until the State Board of Elections determines in writing that the duty has been performed.

(7) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial, and municipal boundaries.

Section 8. KRS 117.065 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 of each year, establish the voting place for each precinct. If a change becomes necessary after that date, notice of change shall be published pursuant to KRS Chapter 424. If a change becomes necessary on election day, notice shall be posted at the former voting place. The expense of renting voting places, for which rent of not less than twenty dollars ($20) shall be paid, shall be paid in the same manner as other election expenses.

(2) The county board of elections shall have the authority to designate as voting places, without cost to the board, buildings constructed in whole or in part with tax revenues.

(3) The county board of elections shall make every reasonable effort to designate as voting places only those places which are accessible to all eligible voters, including those with physical limitations and the elderly.

(4) The county board of elections shall ensure that each precinct polling place in the county has immediate access to a telephone within the polling place on the day of any election.

Section 9. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner: At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for ***a paper*** [~~an~~] absentee ballot containing a verified statement that his inability to appear is due to age, infirmity, or illness. The request for the application may be made by telephone, facsimile machine, mail, or in person. Upon receipt of the application, the clerk shall immediately mail to the voter ***a paper*** [~~an~~] absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 10. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***a paper*** [~~an~~] absentee ballot. The application shall state that the emergency condition occurred within the seven (7) day period and shall be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or children of the voter. If the voter has no spouse, parents or children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***a paper*** [~~an~~] absentee ballot.

Section 11. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for an absentee ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no ***paper*** absentee ballots shall be mailed to ***a voter who resides within the county in which he is registered*** [~~an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open~~]. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***a paper*** [~~an~~] absentee ballot as provided in this section and who is properly registered as stated in his application. [~~Application for an absentee ballot shall be made as follows:~~]

(a) ***The following voters may apply to cast their votes by paper absentee ballot at any time not later than the close of business hours seven (7) days before the election:***

1. Voters permitted to vote by paper absentee ballot pursuant to KRS 117.075 or KRS 117.077;

2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;

3. Students and other voters who live outside the state but who are still eligible to vote in this state; and

4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime.

Any ***other*** qualified voter in any county ***who is not permitted to vote by paper absentee ballot*** who shall be absent from the county on any election day [~~for any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the crime~~] may, at any time not less than the close of normal business hours ***on any of the twelve (12) working*** [~~seven (7)~~] days before the election, make application in person [~~or by mail~~] to the county clerk ***to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections*** [~~for an absentee ballot~~]. Requests for an application for ***a paper*** [~~an~~] absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for ***a paper*** [~~an~~] absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for ***a paper*** [~~an~~] absentee ballot to ***a*** [~~the~~] voter ***permitted to vote by paper absentee ballot*** who appears in person to request the application, or shall mail the application to a voter ***permitted to vote by absentee ballot*** who requests the application by telephone, facsimile machine, or mail. The ***paper absentee ballot*** application shall be restricted to use of the voter or the spouse, parents, or children of the voter;

(b) Any qualified voter in any county who finds, within the last ***twelve (12) working*** [~~seven (7)~~] days preceding an election, that he shall be unexpectedly absent from the county on election day may apply ***to*** [~~for and~~] vote ***on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections,*** [~~by means of an absentee ballot~~] up to the close of normal business hours on the day before the election. The voter shall complete and sign, under penalty of perjury, an affidavit of emergency stating that he had no knowledge of his absence prior to ***the twelve (12) working*** [~~seven (7)~~] days before the election. The application shall be restricted to the use of the voter and the absentee ballot shall be executed in the office of the county clerk during normal business hours.

(c) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces***,*** and overseas citizens, may apply for ***a paper*** [~~an~~] absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for ***a paper*** [~~an~~] absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt; and

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote ***on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election*** [~~by absentee ballot~~]. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment less than ***twelve (12) working*** [~~seven (7)~~] days prior to the election, such officer may vote ***on a voting machine*** [~~by absentee ballot~~] in the county clerk's office ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e) The members of the county board of elections or their designees who provide equal representation of both political parties shall serve as precinct election officers for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. The members of the county board of elections or their designees shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election.

(f) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(2) The clerk shall type the name of the voter ***permitted to vote by paper absentee ballot*** on the application form for that person's use and no other. The ***paper absentee ballot*** application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of ***the reason the person cannot vote in person*** [~~absence~~] on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for ***a paper*** [~~an~~] absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive ***a paper*** [~~an~~] absentee ballot, he shall mail to the voter ***a paper*** [~~an~~] absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) ***Paper*** absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and ***paper*** absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and ten (10) days prior to each runoff primary.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received ***a paper*** [~~an~~] absentee ballot but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his ***paper*** absentee ballot and vote in person. He shall return his ***paper*** absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the ***paper*** absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent ***paper*** absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 12. KRS 117.086 is amended to read as follows:

(1) The voter returning his ***paper*** absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the ***paper*** ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***a paper*** [~~an~~] absentee ballot by mail under the provisions of KRS 117.085***,*** and all members of county boards of elections and precinct election officers qualified to vote ***prior to the election*** [~~by absentee ballot~~] under the provisions of KRS 117.085, shall vote at the main office of the county clerk ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** prior to the day of election. The clerk may provide for such voting by [~~absentee ballot or may use~~] the voting equipment in general use in the county either at the precinct***,*** [~~or~~] the equipment as may be used to tabulate absentee ballots, ***or any other voting equipment approved by the State Board of Elections for use in Kentucky,*** except as follows:

(a) Any voter qualifying to vote in the clerk's office ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** [~~as provided by this subsection~~] who receives assistance to vote shall ***complete the voter assistance form required by KRS 117.255*** [~~use the typed inner and outer envelopes as required in subsection (1) of this section~~].

(b) Any voter qualifying to vote in the clerk's office ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** [~~as provided by this subsection~~] whose qualifications are challenged by any clerk or deputy [~~shall vote in the manner required in subsection (1) of this section and~~] shall complete an "Oath of Voter" affidavit [~~which shall be inserted in the outer envelope along with the inner envelope~~].

(3) ***When*** [~~If~~] the clerk uses general voting equipment [~~or absentee ballot tabulating equipment~~] as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** shall sign an "Absentee Ballot Signature Roster."

(4) The clerk shall designate a location within his office where the ballots shall be cast secretly. [~~In counties containing a city of the first or second class,~~] The county clerk***, with the approval of the State Board of Elections,*** may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in

subsection (2) of this section.

(6) The clerk shall deposit all of the returned ***paper*** absentee ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.

(7) The clerk shall keep a list of all persons who return their ***paper absentee*** [~~mail~~] ballots or cast their ballots in the clerk's office ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of ***votes cast by paper absentee ballots and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections,*** [~~absentee ballots~~] cast in any election as a part of the official returns of the election.

Section 13. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent basis, any person voting by means of ***a paper*** [~~an~~] absentee ballot ***or on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections,*** as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) ***A person shall not assist more than two (2) voters, including those casting paper absentee ballots or voting on the machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, in any one (1) election.*** Any person who assists another person in voting by use of ***a paper*** [~~an~~] absentee ballot ***or on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections,*** shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all ***paper*** absentee ballots shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

Section 14. KRS 117.087 is amended to read as follows:

(1) The challenge of ***a paper*** [~~an~~] absentee ballot shall be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the ***paper*** absentee ballots ***and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections***. The board may appoint a central [~~absentee~~] ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board shall meet at the clerk's office to count the ***paper*** absentee ballots ***and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections***. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of ***the*** [~~absentee~~] ballots. The board shall open the boxes containing ***paper*** absentee ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned ***paper*** absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter ***who cast a paper absentee ballot*** is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the ***paper absentee*** ballots in the box. The board shall open the ballot box, remove the ***paper*** absentee ballots from the inner envelopes, and count the ballots.

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office ***or other place designated by the county board of elections, and approved by the State Board of Elections,*** as provided for in KRS 117.086 and a total of all [~~absentee~~] ballots shall be made and recorded on the form provided by the State Board of Elections.

(7) The county board of elections shall make public the [~~absentee~~] ballot results ***determined as provided in this section*** after 6 p.m.

Section 15. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all ***members of county boards of elections*** [~~county clerks, sheriffs~~], county attorneys, Commonwealth's attorneys and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. ***The training provided by the county board of elections shall include, but not be limited to, the following:***

(a) Operation of the voting machine or ballot cards;

(b) Posting of necessary signs and notices at the polling place;

(c) Voter assistance;

(d) Maintaining precinct rosters;

(e) Confirmation of a voter's identity;

(f) Challenge of a voter;

(g) Completing changes of address or name at the polling place;

(h) Qualifications for voting in a primary election;

(i) Electioneering and exit polling;

(j) Write-in voting procedures;

(k) Persons who may be in the voting room;

(l) Election violations and penalties;

(m) Assistance which may be provided by law enforcement officers; and

(n) Election reports..

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ***ten*** [~~five~~] dollars ***($10)*** [~~($5)~~] for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 16. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place or within a distance of five hundred (500) feet of ***a county clerk's office or*** any entrance to a building in which a voting machine is located ***or in which absentee votes may be cast prior to election day*** if that entrance is unlocked and is used by voters ***during the period that absentee votes may be cast or*** on election day, unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a countywide basis a greater distance from the polling place within which electioneering may be permitted, but in no case shall electioneering be allowed within five hundred (500) feet of ***a county clerk's office or*** any entrance to a building in which a voting machine is located ***or in which absentee votes may be cast*** if that entrance is unlocked and is used by voters. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards***,*** or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in ***any room in which voting, including absentee voting, is conducted*** [~~the voting room~~] concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) ***Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may*** [~~The election sheriff, under the supervision of the precinct election judges, shall~~] enforce the election laws and maintain law and order at the polls and within ***five hundred (500)*** [~~fifty (50)~~] feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in schoolchildren a respect for the democratic principles of voting by conducting in any county a mock election for schoolchildren in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 17. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form.

(3) Upon making and filing with the judges the oath, the voter shall retire to the voting machine, with the ***person who will assist him in voting, and the person providing assistance shall*** [~~judges, and one of the judges shall, in the presence of the other and the voter,~~] operate the machine as the voter directs. ***An illiterate person or*** [~~The disabled~~] person ***with a disability*** applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of that employer, an officer or agent of that voter's union, or a candidate shall not assist the voter, nor shall a person assist more than two (2) voters ***in any one (1)*** [~~on the date of any~~] primary, regular, or special election. ***A precinct election officer, county clerk, or employee of a county clerk shall not assist a voter in casting a ballot, either on the day of an election or by absentee voting prior to election day.***

(4) The clerk shall swear the person accompanying the disabled or blind voter ***or illiterate voter*** to operate the voting machine in accordance with the directions of the disabled or blind voter ***or illiterate voter***, and the disabled or blind voter ***or illiterate voter*** and the person sworn shall enter the voting booth and the one sworn shall operate the machine for the disabled or blind voter ***or illiterate voter*** as he directs.

(5) Voters who require assistance on a permanent basis due to blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk who shall enter such certification on the voter's registration record. The State Board of Elections shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance permanently without signing voter assistance forms at the precinct.

(6) Voting booth shall mean an area in which a voter casts his vote which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific ***reason*** [~~physical disability~~] that requires him to receive assistance.

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12) The election sheriff shall be responsible for reporting violations of this section.

Section 18. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date***,*** and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars ($255) for each precinct in the county. ***However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.*** All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of ***the*** [~~such~~] county; and payments to any county shall be terminated whenever ***the*** [~~such~~] county fails to pay any part of the rentals required for any effective period of the lease ***or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2)***.

Section 19. KRS 117.995 is amended to read as follows:

(1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.

(3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be guilty of a Class A misdemeanor.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a ***Class A misdemeanor for the first offense and a*** Class D felony ***for each subsequent offense***.

(5) Any person who signs a name other than his own on an application for an absentee ballot or on the verification form for the ballot or on an emergency absentee ballot affidavit, or any person who votes an absentee ballot other than the one issued in his name, or any person who applies for the ballot for the use of anyone other than himself or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot or on an emergency absentee ballot affidavit shall be guilty of a Class D felony.

(6) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day, after he has been duly notified of the provisions by ***any precinct election officer, county clerk, deputy county clerk, or other law enforcement official*** [~~the sheriff of the election precinct~~], shall, for each offense, be guilty of a Class A misdemeanor.

(7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate ***or incomplete*** voter assistance form ***or fails to complete a voter assistance form when required*** shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

(8) The members of a county board of elections that fails to provide the training to precinct election officers required by KRS 117.187(2) shall be subject to removal by the State Board of Elections.

Section 20. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, primary, and runoff primary elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff

primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

(5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.

(6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

(7) All public schools shall be closed on the day of any primary, runoff primary, or regular election. Any public school which is used as a polling place for a special election shall be closed on the day of a special election.

Section 21. KRS 158.060 is amended to read as follows:

(1) Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. ***School shall be closed on the day of an election.*** The legal holidays designated by the State Board for Elementary and Secondary Education to be observed may include the first Tuesday after the first Monday in November of each year ***and the first Tuesday after the fourth Monday in May of each year*** and shall be counted as school days. Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the chief state school officer. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the noninstructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of noninstructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's six (6) hour instructional day, or the time teachers are required to remain at school after the students are dismissed. Except for handicapped children and children attending the primary school program who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the State Board for Elementary and Secondary Education, a minimum of six (6) hours of actual school work shall constitute a school day. Kindergarten programs may be operated for less than six (6) hours without state board approval. The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.

(2) Teachers shall be provided additional time for nonteaching activities. The nonteaching time shall be used to provide teachers opportunities for professional development activities as provided in KRS 156.095, instructional planning, school based shared decision making as provided in KRS 160.345, curriculum development, and outreach activities involving their students' families and the community.

Section 22. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including at least one hundred seventy-five (175) instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the State Board for Elementary and Secondary Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

  (a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

  (b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

  (c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095 and 158.720. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

  (a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

  (b) Local disaster which would endanger the health or safety of children; and

  (c) Mourning when so designated by the local board of education and approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer.

(4) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local

disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. ***School shall be closed on the day of an election and that day may be designated as one (1) of the days to be used for professional development activities or professional meetings.***

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts for the 1990-1991 and 1991-1992 school years for continuing education. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. The chief state school officer shall recommend to the Division of School Finance of the Office of Education Accountability by June 30, 1991, a method for funding continuing education for these students through the state-supported funding program.

(8) Notwithstanding any other statute, each school term shall include at least the minimum number of instructional days required by this section. However, for the school years 1992-93 and 1993-94, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional development for teachers if the following conditions are met:

(a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and

(b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education.

SB 301, AN ACT relating to certification of official editions of the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.138 is amended to read as follows:

(1) ***(a)*** When any complete official edition of the statutes is published, the director of the Legislative Research Commission shall issue and the reviser of statutes shall attest to a certificate that the edition contains all statute laws of the Commonwealth of a general nature except those omitted pursuant to KRS 7.134, that the edition has been prepared in a manner acceptable to the Legislative Research Commission so as to insure fidelity of its text with the enrolled bills of the General Assembly, and that, with any changes in form permitted by KRS 7.136 having been incorporated, the sections in the printed edition are correctly printed. A similar certification for each new volume, unit, supplement, or supplemental pocket part of an official edition shall be made, but it need not recite that the volume, unit, supplement, or supplemental pocket part contains all general statute laws. All copies of the edition shall contain a printed copy of the certificate.

(b) An electronic version of an official printed edition of the statutes may be designated as an official electronic version by action of the Legislative Research Commission upon a finding that the data contained in the electronic version is the same as that used for the official printed edition and that the electronic version is maintained and updated in a manner and with a frequency substantially the same as the printed edition. A certification similar to that provided for in subsection (1) of this section shall be issued for each release of the electronic version. All copies of the electronic version shall contain the text of the certificate.

(2) Any section in an official edition may be amended or repealed by reference to the section number, without reference to the legislative act from which it was compiled.

(3) In any judicial or administrative proceeding, the text of any codified Kentucky statute which is submitted or cited by a party or upon which the court or administrative officer or body relies shall be that text contained in an official edition of

the Kentucky Revised Statutes so designated pursuant to KRS 7.132 and bearing the certification provided for by subsection (1) of this section.

SCR 65, A CONCURRENT RESOLUTION to create a Task Force on family caregivers in Kentucky.

WHEREAS, most of the children and adults who need long-term care in Kentucky are cared for at home by family caregivers; and

WHEREAS, these Kentucky families experience unusually high levels of family stress and financial expense; and

WHEREAS, these Kentucky families save the Commonwealth millions of dollars by providing in-home care for citizens whose care would otherwise be the sole responsibility of the state; and

WHEREAS, many families would prefer to be able to care for their loved ones at home or in the nearby community;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Legislative Research Commission is directed to appoint a Task Force on Family Caregivers to study for the Commonwealth:

(1) The extent of the need experienced by family caregivers in Kentucky;

(2) The current resources available within the programs of the Cabinet for Human Resources to support family caregivers; and

(3) The resources needed to more adequately support families who are experiencing these extra family stresses, including but not limited to, respite, financial assistance, and waiver programs.

Section 2. That the Task Force shall consist of twenty-five (25) members as follows: Two (2) members of the General Assembly, one (1) of whom shall serve as the chairman of the task force; four (4) individuals representing family caregivers; and one (1) representative from each of the following:

(1) Department for Medicaid Services, Cabinet for Human Resources;

(2) Department for Social Services, Cabinet for Human Resources;

(3) Division of Mental Health, Department for Mental Health and Mental Retardation Services , Cabinet for Human Resources;

(4) Division of Mental Retardation, Department for Mental Health and Mental Retardation Services, Cabinet for Human Resources;

(5) Division for Aging Services, Department for Social Services, Cabinet for Human Resources;

(6) Division of Maternal and Child Health, Department for Health Services, Cabinet for Human Resources;

(7) Division of Special Child Services, Department of Education;

(8) Kentucky Developmental Disabilities Planning Council;

(9) Kentucky Disabilities Coalition;

(10) Family Connections, a project of the Kentucky Developmental Disabilities Council;

(11) Kentucky Special Parent Involvement Network;

(12) Kentucky Family-Based Services Association;

(13) Association of Retarded Citizens of Kentucky;

(14) Supported Living Council;

(15) Kentucky Alliance for the Mentally Ill;

(16) Kentucky Home Health Association;

(17) Division of Protection and Advocacy, Department of Public Protection, Cabinet for Public Protection and Regulation;

(18) Alzheimer's Association; and

(19) A person who receives care at home.

Section 3. That the purpose of the task force shall be to study and make recommendations for the 1996 Kentucky General Assembly regarding a plan of action and any needed legislation to assist family caregivers.

Section 4. The findings and recommendations of the task force shall be submitted to the Legislative Research Commission by September 1, 1995.

Section 5. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the

Commission.

SB 74, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Coal Marketing and Export Council is established within the Office of the Secretary of the Cabinet for Economic Development. The council shall provide direction to the cabinet and to the Governor in marketing efforts targeted to increasing opportunities for Kentucky coal and other products and it shall carry out other duties and responsibilities as assigned by the Governor or the secretary.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Coal Marketing and Export Council shall be composed of fifteen (15) members, as follows:

- ***(a) The Lieutenant Governor, who shall serve as chair of the council;***
- ***(b) The secretary to the Governor's Executive Cabinet, who shall serve as vice-chair of the council;***
- ***(c) The secretary of the Cabinet for Economic Development;***
- ***(d) The secretary of the Transportation Cabinet;***
- ***(e) The deputy secretary of the Natural Resources and Environmental Protection Cabinet;***
- ***(f) The executive director of the Coal Marketing and Export Council; and***
- ***(g) Nine (9) citizen members appointed by the Governor for terms of four (4) years. These citizen members shall include representatives of interests concerned with the marketing of Kentucky coal and other products, such as the owners or operators of companies involved in coal production, transportation, and consumption; representatives of the academic and financial communities; and representatives of major coal and industry associations. As the terms expire, the Governor shall appoint successors for terms of four (4) years. Each citizen member shall serve until his successor is appointed.***

(2) Council members shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as council members.

(3) The council shall, at a minimum, meet once every quarter.

(4) Nine (9) members of the council shall constitute a quorum for the purpose of conducting business.

(5) The cabinet shall provide staff services to the council.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Coal Marketing and Export Council shall annually or more frequently, as deemed necessary, forward recommendations to the secretary of the Cabinet for Economic Development and the Governor on areas critical to marketing Kentucky coal and other products including, but not limited to:

(1) Promotion of Kentucky coal through development of market information;

(2) Coordination of ongoing research and marketing programs relating to coal production, transportation, and consumption;

(3) Identification of national and international market developments relating to coal and other products; and

(4) Provision of advice to coal operators and other industries seeking to enter or expand domestic or export markets.

Section 4. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

- (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.
- (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (c) The Finance and Administration Cabinet shall attempt in every practicable way to insure that state agencies are acquiring their real needs at the lowest possible cost.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures, and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general regulations prescribed by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all property (including any interest in real property) of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for such requirements of that cabinet.

(5) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(6) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(7) Nothing in this section shall deprive the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or through any other person influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(10) For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;

(b) A package system commonly referred to as "turnkey";

(c) Phase bidding commonly referred to as "fast track"; or

(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(11) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in this code, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The ***Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development,*** [~~Governor's Office for Coal and Energy Policy~~] shall conduct a thorough economic feasibility analysis on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and ***shall*** [~~must~~] issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For ***the*** [~~such~~] analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 5. KRS 143.090 is amended to read as follows:

(1) The Transportation Cabinet shall certify to the secretary of the Revenue Cabinet by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.

(2) The ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~] shall certify to the secretary of the Revenue Cabinet by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~]. The amount so certified shall in no case exceed three million dollars ($3,000,000) in any one (1) year.

(3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the secretary of the Revenue Cabinet shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~], respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:

(a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and

(b) An amount equal to the amount certified by the ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~] shall be transferred by appropriate interfund transfer procedures to the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~].

(4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~] shall be deposited by the Revenue Cabinet to the credit of the general fund.

(5) ***If*** [~~In the event~~] the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the secretary of revenue shall prorate the proceeds to the transportation fund and the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~] based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 6. KRS 224.46-850 is amended to read as follows:

(1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.

(2) It shall be the responsibility of the Cabinet for Economic Development in coordination with the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~] to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 7. KRS 224.46-870 is amended to read as follows:

The Cabinet for Economic Development ***in consultation with the Coal Marketing and Export Council*** [~~and the Governor's Office for Coal and Energy Policy~~] shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).

Section 8. KRS 262.875 is amended to read as follows:

(1) There shall be created a committee to advise the Governor on state activities that may contribute to the conversion of farmland to nonfarm uses. The committee shall be called the Interagency Farmland Advisory Committee and the members shall be appointed by the Governor and shall include one (1) representative for each of the following:

(a) Governor's Cabinet;

(b) Finance and Administration Cabinet;

(c) Revenue Cabinet;

(d) Cabinet for Economic Development;

(e) Transportation cabinet;

(f) Natural Resources and Environmental Protection Cabinet;

(g) ***Coal Marketing and Export Council*** ~~[Governor's Office for Coal and Energy Policy]~~;

(h) Department of Agriculture;

(i) Department of Local Government;

(j) Department of Fish and Wildlife Resources;

(k) Environmental Quality Commission;

(l) Soil and Water Conservation Commission;

(m) Dean, College of Agriculture, University of Kentucky;

(n) Two (2) farmer owners and operators of one hundred fifty (150) acres or less, one (1) selected from a list of three (3) persons recommended by the Kentucky Farm Bureau, and one (1) selected from a list of three (3) persons recommended by the national farmers organization;

(o) Two (2) farmer owners and operators of more than one hundred fifty (150) acres, one (1) selected from a list of three (3) persons recommended by the Kentucky Farm Bureau, and one (1) selected from a list of three (3) persons recommended by the national farmers' organization; and

(p) The joint chairpersons of the Interim Joint Committee on Agriculture and Natural Resources.

(2) The representative of the Natural Resources and Environmental Protection Cabinet shall be the chairperson of the committee, and the representative of the Soil and Water Conservation Commission shall be the vice chairperson of the committee. The staff for the committee shall be provided by the Natural Resources and Environmental Protection Cabinet.

(3) In order to advise the Governor, the committee shall review proposed state projects which will convert farmland to nonfarm use. The review shall consider alternatives to the project proposal in an effort to balance the public purpose to be served by the state project against the public purpose of conserving productive farmland.

(4) The Interagency Farmland Advisory Committee shall review proposed projects of all state agencies, including but not limited to, boards and commissions. The review shall be limited to proposed projects which will require the acquisition of more than fifty (50) acres of farmland.

(5) During the planning stage of the project and before any action is taken to acquire farmland, the state agency shall submit a report to the committee. The report shall explain the project, highlight the location of land that must be acquired, present the reasons for needing the land, and explain the reasons for rejecting alternatives to the proposed project.

(6) The committee shall provide notice of the proposed project to the local community by publishing the notice in the newspaper of greatest local circulation within fifteen (15) days after receiving the report. The notice shall solicit comments on the proposal and state that a public hearing will be held upon a request received within fifteen (15) days of the last published notice. If requested, the public hearing shall be held within fifteen (15) days after receiving the request. No later than ten (10) days after the hearing, the committee shall file its report and any recommendations to the Governor. The committee may recommend to the Governor that action be taken by the Governor to alter the proposed state project if necessary to balance the public interests.

(7) A majority of the members of the committee constitutes a quorum for conducting business, and any action taken in the name of the committee requires an affirmative vote of a majority of the members present and voting.

(8) Members shall receive no compensation but shall be reimbursed for expenses incurred.

Section 9. KRS 247.920 is amended to read as follows:

(1) Application for an alcohol production exemption certificate shall be filed with the Revenue Cabinet in such manner and in such form as may be prescribed by regulations issued by the Revenue Cabinet and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Revenue Cabinet for the proper administration of KRS

247.910 and this section. The ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~] shall provide technical assistance and factual information as requested in writing by the Revenue Cabinet. If the Revenue Cabinet finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before issuing an alcohol production tax exemption certificate, the Revenue Cabinet shall give notice in writing by mail to the ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~], and shall afford to the applicant and to the ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~] an opportunity for a hearing. On like notice and opportunity for a hearing, the Revenue Cabinet shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.

(3) If the circumstances so require, the Revenue Cabinet, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the Revenue Cabinet revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~]. Notice of an order of the Revenue Cabinet denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~]. The applicant or holder and the ***Coal Marketing and Export Council*** [~~special assistant to the Governor for coal and energy policy~~] shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Revenue Cabinet to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~] and the Revenue Cabinet.

(8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the ***Coal Marketing and Export Council*** [~~Governor's Office for Coal and Energy Policy~~] and to the Revenue Cabinet.

(9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 10. The General Assembly confirms Executive Order 92-387, issued on April 17, 1992, as amended by Executive Order 92-1147, issued on October 27, 1992, to the extent that it is not otherwise confirmed by this Act.

Section 11. The following KRS sections are repealed:

11.300 Governor's Office for Coal and Energy Policy created.

11.305 Responsibilities of Governor's Office for Coal and Energy Policy.

11.310 Research program.

11.315 Duties of Governor's Office for Coal and Energy Policy.

11.320 Administration of state and federally funded programs.

11.325 Administrative regulations.

11.330 Definitions.

11.335 Establishment of research program.
11.340 Duties of special assistant.
11.345 Powers of special assistant.
11.350 Study grants.
11.355 Interstate agreements.
11.360 Extension of program into state schools.
152A.300 Definition for KRS 152A.300 to 152A.325.
152A.305 Kentucky Coal Authority.
152A.310 Terms of members.
152A.315 Duties and functions of authority.
152A.320 Powers of authority.
152A.325 Revenue bonds.
154.54-020 Kentucky Export Council created – Members – Meetings – Quorum – Regulations.
154.54-030 Duties – Reports – Interagency cooperation.

The Committee Amendment No. 1 to **SB 74** is as follows:

On page 14, between lines 7 and 8, by inserting the following:

"SECTION 10. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

An approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was created as a result of a project, as a condition of employment or the retention of employment, agree to pay a job development assessment fee, not to exceed, during any fiscal year of the approved company, three percent (3%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020. Each assessed employee shall be permitted a credit against his Kentucky income and local occupational taxes which would otherwise have been withheld under KRS 141.310 and 141.350 in the same manner as provided in KRS 154.22-060 and 154.22-070."; and

On page 14, line 8, by changing "Section 10" to "Section 11"; and

On page 14, line 11, by changing "Section 11" to "Section 12".

The Committee Title Amendment to **SB 74** is as follows:

By deleting "reorganization" and inserting "economic development" in lieu thereof.

Motions, Petitions and Communications (Continued)

Representative Adkins moved the adoption of the following **Legislative Citation No. 118**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Data Management Branch of the Natural Resources Cabinet for their efforts above and beyond the call of duty in implementing the first agency-wide legislative tracking system. This entire membership joins Representative Rocky Adkins in applauding the dedication and hard work of the entire staff and recognizes the specific efforts of Belenda Holland, Sue Lee, Neal Lanham and Pamela Powers.

Representative B. Smith moved the adoption of the following **Legislative Citation No. 119**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest condolences and expressions of sympathy to The Phyllis Elam Parks Family on the passing of Phyllis Elam Parks. On this most grievous occasion this eminent body joins Representative Billy Ray Smith, a wide circle of family and friends in memory Phyllis Elam Parks. Phyllis Elam Parks was a living embodiment of "family values", a devout member of the First Baptist Church in Bowling Green, Kentucky, and a staunch member of her community, she will be deeply missed. The Commonwealth is enriched by her influence and values, and we share in the tragic sense of loss her family experiences during their grief.

Representative B. Smith moved that **HB 489** be withdrawn. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills under rules previously suspended: **HB 10**, Representative Johnson; **HB 311**, Representative Simpson; **HB 616**, Representative Wayne; **HB 819**, Representative Trapp; **HB 916**, Representative Donnermeyer.

Representative Lear moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lear moved that he be recorded as voting "yea" on Floor Amendment No. 2 to the Committee Substitute to **HB 302**. Agreed.

Representative Zimmerman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Zimmerman moved that his vote be changed from "nay" to "yea" on **HB 929**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that he be recorded as voting "yea" on **SB 73**. Agreed.

Representative Noland moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Noland moved that he be recorded as voting "yea" on **HB 374, HJR 86, HJR 75, HCR 70, HB 624, HB 580, HB 652, HB 851, HB 496, HB 815, HB 738, HB 762, HB 675, HB 893, HB 488, HB 643** and **HB 646**. Agreed.

Representative Jensen moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Jensen moved that he be recorded as voting "nay" on **HB 810**. Agreed.

Representative Jensen moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Jensen moved that he be recorded as voting "yea" on **SB 242, HB 202, HB 538, HB 556, HB 681, HB 685, HB 726, HB 742, HB 875** and **HCR 84**. Agreed.

Announcements

The Clerk announced the following meetings:

Majority Caucus, 9:00 a.m., March 18, 1994, Room 149

Committee on Rules, upon adjournment, Speaker's Office

Banking and Insurance, 8:15 a.m., March 18, 1994, Room 129

Banking and Insurance, canceled, March 17, 1994

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 18, 1994.

On the roll call the vote was **Yeas 85**–Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bryant, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Fox, French, Gedling, Geveden, Gray, Hampton, Hancock, Harper, Hatcher, Jensen, Johnson, Keith, Kerr, Lear, Lee, Lewis, Lindsay, Little, Long, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 3**–Heleringer, LeMaster, Scorsone.

The motion to adjourn was adopted.

FRIDAY, MARCH 18, 1994

FIFTIETH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Jay Ayers, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Lyne and Nelson.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 17, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HR 106**

Economic Development: **SB 195**

Elections and Constitutional Amendments: **SB 272, SB 348**

Health and Welfare: **SB 316**

Judiciary: **SB 337**

Natural Resources and Environment: **SB 266**

State Government: **HR 107, SB 297, SB 367**

Report of Committees

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day, March 21, 1994: **HB 381**

The Committee on Rules reported that **HB 313, HB 476, HB 606, HB 615, HB 623, HB 679, HB 698, HB 706, HB 750, HB 757, HB 779, HB 825, HB 827, HB 833, HCR 60, HCR 64, HJR 77, SB 39, SB 43, SB 47, SB 187, SB 221, HB 699, SB 158, SB 157, HB 662, HB 844, HB 886, SB 188, HB 430, HB 453, HB 740, HB 907, HJR 91, SB 13, SB 140, HB 730** and **HB 908** have been posted for passage in Orders of the Day for March 21, 1994.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **SB 311**

Natural Resources and Environment: **SB 266**

Education: **SB 238, SB 305, SB 314, SB 343, SCR 81, SJR 82, SCR 84**

Report of Committees (Continued)

The Committee on Banking and Insurance reported **SB 100** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 100, AN ACT relating to a linked deposits loan program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) "Eligible small business" means any person that has all of the following characteristics:

- ***(a) Is headquartered in this state;***
- ***(b) Maintains offices and operating facilities in this state and transacts business in this state;***
- ***(c) Employs fewer than the equivalent of fifty (50) full-time employees, the majority of whom are residents of Kentucky;***
- ***(d) Has gross earnings that do not exceed one million dollars ($1,000,000) annually;***
- ***(e) Is organized for profit;***
- ***(f) Holds no position as officer or director of an eligible lending institution.***

(2) "Eligible agribusiness" means any person that has all of the following characteristics:

- ***(a) Is actively engaged in agricultural endeavors;***
- ***(b) Shows gross earnings not in excess of one million dollars ($1,000,000) annually;***
- ***(c) Derives at least one-half (1/2) of annual gross income from farming and not more than sixty thousand dollars ($60,000) annual net income from all other sources; and***
- ***(d) Holds no position as officer or director of an eligible lending institution.***

(3) "Eligible lending institution" means a financial institution that is eligible to make commercial loans including an institution of the farm credit system organized under the Farm Credit Act of 1971, 12 U.S.C.A. 2001 et. seq., as amended, which chooses to participate in the linked deposits program, and which agrees to lend the value of the deposits to small businesses or agribusinesses at a reduced interest rate calculated by the State Investment Commission according to the provisions of Section 3(3)(c) of this Act.

(4) "Linked investment" or "linked deposit" mean a repurchase agreement placed by the State Investment Commission with an eligible lending institution at the rate designated according to the provisions of subsection (3) of Section 3.

SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The State Investment Commission may invest in linked deposits as provided for in KRS 42.510 as amended. Investment moneys shall be derived from the state's unclaimed and abandoned property program set forth in KRS Chapter 393.

(2) One-half (1/2) of the total investment shall be invested in low interest loans for agricultural production. The investment vehicle for the agribusiness loans shall be the Commonwealth's master repurchase agreement negotiated by the Investment Commission and the lending institution.

(3) One-half (1/2) of the total investment shall be invested in low interest loans for small business expansion or development. The investment vehicle for the small business loans shall be the same as that provided for agribusiness loans in subsection (2) of this section.

(4) The State Investment Commission may accept or reject a linked investment package or any portion thereof, based on the ratio of state funds to be deposited to jobs sustained or created.

(5) Upon acceptance of the linked investment package or any portion thereof, the State Investment Commission may place a repurchase agreement with the eligible lending institution at the rate determined by the investment commission according to the provisions of Section 3(3)(c) of this Act. The Department of the Treasury shall approve individual loans at the eligible lending institutions.

(6) The State Investment Commission reserves the right to alter the loan rate to the lender, not the borrower, if linked deposit investment program auditors determine that the lending institution has violated standards of the low interest loan program.

(7) In considering which eligible small businesses or agribusinesses should receive reduced rate loans, the Department of the Treasury shall take the following conditions into consideration:

- ***(a) The economic needs of the area in which the business is located;***
- ***(b) The number of in-state jobs to be created or preserved by the receipt of the loan;***
- ***(c) Current profitability of the enterprise;***
- ***(d) The historical ability of the borrower to prove his enterprise can be profitable;***
- ***(e) The evidence that the money saved on the reduced interest rate loan will provide a real and verifiable opportunity for current profitability; and***
- ***(f) Evidence that amount loaned will be used exclusively to finance in-state operations.***

(8) The State Investment Commission, annually, by February 1, shall make a report on the linked investment program

for the preceding year to the Governor and to the leadership of the General Assembly who shall, in turn, transmit it to the appropriate legislative committees for consideration. The report shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based, and the eligible small businesses and agribusinesses who received the loans.

(9) The conditions set forth in Section 2(7)(a) to (f) shall be further detailed in administrative regulations promulgated by the Department of the Treasury.

SECTION 3. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Qualified public depositories in Kentucky shall have the option of participating in either the State Investment Commission's master repurchase agreement program, or the linked deposits investment program exclusively.

(2) An eligible lending institution shall enter into a linked deposit investment agreement with the State Investment Commission which shall include requirements necessary to carry out the purposes of the linked deposit investment program. The requirements shall be established in administrative regulations promulgated by the Department of the Treasury.

(3) The eligible lending institution that desires to receive a linked deposit investment shall agree to loan the funds to borrowers under the following terms:

(a) Maturity dates of the loan shall be set as agreed to between the financial institution and the borrower;

(b) The total amount of the loan may be supplied in equal parts by the financial institution from its reserves and the State Investment Commission in the form of a linked deposit repurchase agreement; and

(c) The rate of interest on the loan shall be set at a three percent (3%) maximum below the current borrowing rate. A minimum interest rate of two percent (2%) shall be returned to the state.

(4) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small businesses and agribusinesses. The lending institution shall assume all responsibility for credit underwriting, and shall apply all usual lending standards to determine the creditworthiness of each applicant.

(5) The eligible lending institution shall forward to the Department of the Treasury a linked investment loan package, in the form and manner as prescribed by the State Investment Commission. The package shall include the information required by the State Investment Commission, including the amount of the loan requested and the number of jobs to be created or sustained by each eligible small business and agribusiness.

(6) The eligible lending institution shall charge no penalty for early payback of the linked deposit loan.

(7) Applications for renewal of repurchase agreements shall be accompanied by a status report on linked deposit loans.

(8) No loan may exceed fifty thousand dollars ($50,000) in state money.

(9) Eligible lending institutions shall charge one (1) percentage point in advance in the form of a service charge for the purposes of reimbursing the State Investment Commission for program auditing service costs.

(10) The state, the Department of the Treasury, and the State Investment Commission shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small business or to an eligible small agribusiness. Any delay in payments or default on the part of a borrower shall not affect the deposit agreement between the eligible lending institution and the state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Moneys obtained from the linked deposit loan program by eligible small and agribusinesses may be used for annual working capital for production costs, interest costs, capital expense, and debt refinancing.

(2) Eligible small businesses and agribusinesses who have obtained business loans prior to November 1, 1993, shall be allowed to refinance prior loans under the terms of the linked investment program. The borrower shall not be charged any penalty for the refinancing at the same lending institution.

SECTION 5. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Applications for linked deposit loans shall:

(a) Be made on forms of the lending institution which includes a financial statement of the borrower;

(b) Include the most recent federal income tax form 1040, pages one (1) and two (2), and Schedule F; and

(c) Include a statement from the lending institution's chief executive officer that the loan conforms to the intent of the program and that the borrower's financial statement is true and accurate.

(2) Any person who knowingly makes a false statement concerning an application for a linked investment loan shall be charged with the offense of issuing a false financial statement, and shall be subject to the penalty provided for the offense in KRS 411.070.

SECTION 6. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The linked deposits loan program shall be monitored by the Department of Financial Institutions, the Department of

Agriculture, the Cabinet for Economic Development, and the Finance and Administration Cabinet.

(2) The Department of the Treasury shall provide primary administrative support for the program at the direction of the State Investment Commission.

(3) The Department of the Treasury shall promulgate administrative regulations necessary to the proper administration of the linked deposits investment program.

Section 7. KRS 42.510 is amended to read as follows:

(1) The State Investment Commission shall, in a timely manner, consistent with the goal of maximizing the return on invested funds, fix the rate of interest to be paid by qualified public depositories upon investment deposits.

(2) Time deposits in Kentucky depositories made pursuant to this chapter shall bear interest at a rate which would be equal to one hundred percent (100%) of the average full fair market rate of interest for such deposits in Kentucky and contiguous states determined from quotes from not less than seven (7) banks, at least four (4) of which shall be Kentucky banks. Those rates shall be recorded by the State Investment Commission.

(3) The State Investment Commission may invest through qualified depositories in a linked deposits investment program to provide low cost funds for reduced rate loans to eligible small businesses and agribusinesses. The linked deposit loan rate shall be fixed by the State Investment Commission in the manner provided under Section 3(3)(c) of this Act.

Section 8. KRS 42.520 is amended to read as follows:

(1) The State Investment Commission shall assign public funds to public depositories by priority based on evidence that the public depository serves the convenience and economic development needs of the communities in which they are chartered to do business. The convenience and needs of communities ***shall*** include the need for credit services as well as deposit services.

(2) The State Investment Commission shall only assign priorities to public depositories on the basis of compliance with regulations promulgated pursuant to KRS Chapter 13A.

(3) The State Investment Commission may invest through qualified depositories in a linked deposit investment program, and the Department of the Treasury shall assign priority to borrowers based on the provisions of Section 2(7) of this Act.

Section 9. KRS 393.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Banking organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state;

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank, or investment company, engaged in business in this state;

(d) "Life insurance corporation" means any corporation or association transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities;

(e) "Claim" means to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved;

(f) ***"Department"*** [~~"Secretary"~~] means the ***Department of the Treasury*** [~~secretary of revenue;~~

~~(g) "Cabinet" means the Revenue Cabinet~~];

(g)[~~(h)~~] "Person" means any individual, state or national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

(2) This chapter does not apply to bonds of counties, cities, school districts or other tax-levying subdivisions of this state or to any money, funds, or other intangible property at any time held or owing for any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining. The provisions of this paragraph shall be effective retroactively to all such moneys, funds, or other intangible property held or owing by any person on June 1, 1960 or thereafter.

Section 10. KRS 393.110 is amended to read as follows:

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the ***department*** [~~cabinet~~] with respect to the property annually as of July 1. The report shall be filed in the office of the ***department*** [~~cabinet~~] on or before September 1 of each year for the preceding July 1. The report shall include:

(a) Except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars ($25) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars ($25) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim [~~therefor~~] within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the ***department*** [~~cabinet~~];

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the ***department*** [~~cabinet~~] prescribes by administrative regulations necessary for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the ***department*** [~~cabinet~~], and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days ***this*** [~~said~~] copy on the courthouse door or the courthouse bulletin board, and also to publish ***the*** [~~said~~] copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of twenty-five dollars ($25) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the ***department*** [~~cabinet~~] the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and ***the*** [~~such~~] posting and publishing shall be constructive notice to all interested parties.

(2) Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the ***department*** [~~cabinet~~] shall mail notice to each person having an address listed ***in the report*** [~~therein~~] who appears to be entitled to property presumed abandoned under this chapter; except the ***department*** [~~cabinet~~] shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is twenty-five dollars ($25) or less. The notice shall contain:

(a) A statement that according to a report filed with the ***department*** [~~cabinet~~] properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the ***department*** [~~cabinet~~] to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, between November 1 and November 15 of each year, turn over to the ***department*** [~~cabinet~~] all property so reported; but if the person making the report or the owner of the property shall certify to the ***department*** [~~cabinet~~] that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut ***the*** [~~such~~] presumption, then, the person reporting or holding the property shall not be required to turn the property over to the ***department*** [~~cabinet~~] except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding ***the*** [~~such~~] property shall be under no duty while any ***the*** [~~such~~] action is pending to turn the property over to the ***department*** [~~cabinet~~], but shall have the duty of notifying the ***department*** [~~cabinet~~] of the pendency of ***the*** [~~such~~] action.

(4) The person reporting or holding the property or any claimant [~~thereof~~] shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover ***the*** [~~such~~] property as is presumed abandoned whether it has been reported or not and may include in one (1) petition all ***the*** [~~such~~] property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

Section 11. KRS 393.150 is amended to read as follows:

The ***state treasurer*** [~~commissioner~~] shall consider any claim or defense permitted to be filed before the cabinet and hear evidence concerning it. If the claimant establishes his claim, the ***state treasurer*** [~~commissioner~~] shall, when the time for appeal or further legal procedure has expired, authorize payment to him of a sum equal to the amount paid into the State Treasury in compliance with this chapter. The decision shall be in writing and shall state the substance of the evidence heard by the ***state treasurer*** [~~commissioner~~], if a transcript is not kept. The decision shall be a matter of public record.

Section 12. KRS 393.160 is amended to read as follows:

Any person dissatisfied with the decision of the ***state treasurer*** [~~commissioner~~] may, within sixty (60) days, appeal from it to the

Franklin Circuit Court or file an action in that court to vacate the decision. In either event the proceedings shall be de novo, and no transcript of the record before the ***state treasurer*** [~~commissioner~~] shall be required to be kept unless requested by the claimant. In ***the*** [~~such~~] proceeding the ***state treasurer*** [~~commissioner~~] shall be made a party defendant, and all other persons required by law to be made parties in actions in rem or quasi in rem shall be made parties. Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure. Upon an appeal the state shall not be required to make a supersedeas bond. The provisions of this section relating to the decision of the ***state treasurer*** [~~commissioner~~] and appeals therefrom shall also apply to a decision of the ***state treasurer*** [~~commissioner~~] rendered under authority of KRS 393.110.

Section 13. KRS 393.180 is amended to read as follows:

Any legal proceeding to enforce KRS 393.020 to 393.050 and to recover any sum due the state thereunder shall be instituted, on the relation of the ***state treasurer*** [~~commissioner~~], by the county attorney of the county in which ***the*** [~~any such~~] property is located. The petition and all necessary pleadings shall be sent to the ***state treasurer*** [~~commissioner~~] for his signature and approval. The petition shall be accompanied by an affidavit of the county attorney, stating the facts on which it is based. For all other pleadings, there shall be a statement by the county attorney of the reason for the particular pleading.

Section 14. KRS 393.190 is amended to read as follows:

On any action filed by a county attorney under the provisions of this chapter, the assistant Attorney General provided for in KRS 15.105 shall offer assistance and suggestions to the county attorney in the preparation of the petition or any pleadings, and revise and correct them as he considers necessary, subject to the ultimate approval of the ***state treasurer*** [~~commissioner~~], when he is required to sign them.

Section 15. KRS 393.200 is amended to read as follows:

If the county attorney declines to perform the duties imposed upon him by this chapter, they may be performed by the ***state treasurer*** [~~commissioner~~]. When he considers it to the best interest of the state, the ***state treasurer*** [~~commissioner~~] may institute any action authorized by this chapter to be brought by the county attorney, or join the county attorney in the active prosecution of ***the*** [~~any such~~] action.

Section 16. KRS 393.230 is amended to read as follows:

(1) If any person or the agent of any court refuses to pay or surrender intangible property to the cabinet as provided in KRS 393.060 to 393.110, an equitable proceeding may be brought on the relation of the ***state treasurer*** [~~commissioner~~] to force payment or surrender. All property subject to KRS 393.060 to 393.110 may be listed and included in a single action.

(2) If any intangible property is turned over to the cabinet on presumption of abandonment, in accordance with KRS 393.060 to 393.120, the ***state treasurer*** [~~commissioner~~] may at any subsequent time institute proceedings to establish conclusively that it was actually abandoned, or that the owner has died and there is no person entitled to it.

Section 17. KRS 393.240 is amended to read as follows:

(1) If any person has property coming within the purview of KRS 393.020 to 393.050, and also of KRS 393.060 to 393.110, the actions required to be brought by the county attorney and the ***state treasurer*** [~~commissioner~~] may be joined, but joinder is not required, and if separate actions are brought, they shall not be considered as coming within the rule against splitting a cause of action. The county attorney is not charged with the duty of enforcing sections KRS 393.060 to 393.120, 393.150 or 393.160.

(2) The procedure for all actions under this chapter shall be filed as equity actions and follow the procedure provided by the Rules of Civil Procedure, unless otherwise provided in this chapter.

Section 18. KRS 393.280 is amended to read as follows:

(1) The cabinet, through its employees, may examine all records of any person where there is reason to believe that there has been or is a failure to report property that should be reported under this chapter.

(2) The ***state treasurer*** [~~commissioner~~] may promulgate any reasonable and necessary rules for the enforcement of this chapter, and govern hearings held before him. He may delegate in writing to any regular employee of the cabinet authority to perform any of the duties imposed on him by this chapter, except the promulgation of rules.

The Committee on Banking and Insurance reported **SB 164,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 164, AN ACT relating to public employee insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need

and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall ***include*** [~~mean~~] a person, including an elected public official, who is regularly employed by any department, board, agency, [~~or~~] branch of state ***government, or any municipal, urban-county, charter county, or county*** government, ***whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080*** and who is a contributing member to any one (1) of the retirement systems administered by the state ***and including***[~~, provided, however, that~~] any federally-funded time-limited employee[~~may receive insurance coverage~~]. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom ***the*** [~~such~~] insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization[~~; except that~~] if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of ***the*** [~~such~~] employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of ***the*** [~~such~~] employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain ***the*** [~~such~~] provisions [~~as~~] he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom ***the*** [~~such~~] dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain ***the*** [~~such~~] provisions [~~as~~] he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by ***any*** [~~the state or~~] department, board, [~~or~~] agency***,***[~~;~~] or ***branch of state, municipal, urban-county, charter county, or county government; or***

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by ***any*** [~~the state or~~] department, board, [~~or~~] agency***, or branch of state, municipal, urban-county, charter county, or county government*** for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, ***the*** [~~such~~] employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the

employer.

(6) No payment of premium by ***any*** [~~the state or~~] department, board, [~~or~~] agency***, or branch of state, municipal, urban-county, charter county, or county government*** shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by ***any*** [~~the state or~~] department, board, [~~or~~] agency***, or branch of state, municipal, urban-county, charter county, or county government*** shall be considered a proper cost of administration.

(7) The policy or policies may contain ***the*** [~~such~~] provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and [~~such~~] other provisions [~~as~~] the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The commissioner of personnel shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Supreme Court districts, members representing state government from each of the seven Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

Section 2. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the federal Internal Revenue Code;

(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state***, municipal, urban-county, charter county, or county*** government, and who is a contributing member to any one (1) of the retirement systems administered by the state, and including a federally funded time-limited employee;

(c) "Department" shall mean the Department of Personnel;

(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the department may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited:

(a) Health care coverage;

(b) Health maintenance organization coverage;

(c) Catastrophic illness coverage;

(d) Dental insurance;

(e) Term life insurance-accidental, death, or dismemberment;

(f) Vision insurance;

(g) Long term disability insurance;

(h) Long term medical care; and

(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the department determines to be in the best interests of state employees.

(4) Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction. The election shall be made in writing; and once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status which necessitates a revision of his benefit election.

(5) Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent ***the*** [~~such~~] benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

Section 3. KRS 18A.228 is amended to read as follows:

For purposes of KRS 18A.228 to 18A.2286, the term "state employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state***, municipal, urban-county, charter county, or county*** government, and who is a contributing member of any of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the State Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board-authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and shall include a member of the Legislators' Retirement Plan as provided in KRS 18A.2287.

Section 4. KRS 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the Department of Personnel may establish a state employee benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2). All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any amount due over that contributed by ***any*** [~~the state or~~] department, board, [~~or~~] agency***, or branch of state, municipal, urban-county, charter county, or county government*** for coverage shall be paid by the employee.

(4) No contribution by ***any*** [~~the state or~~] department, board, [~~or~~] agency***, or branch of state, municipal, urban-county, charter county, or county government*** shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of such employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and [~~such~~] other provisions as the Department of Personnel may approve.

(6) Group rates under the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

Section 5. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare, except as provided in subsection (4) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties***, charter county,*** and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health

maintenance organization coverage, or hospitalization benefits to their employees and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employees and elected officers. ***The*** [~~Such a~~] plan may require employees to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, ***charter county,*** urban-county government, or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employees and elected officers and by the city, county, ***charter county,*** urban-county government, or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, ***charter county,*** urban-county government, or agency. Each city, county, ***charter county,*** urban-county government, or agency may make rules and regulations and do all other things necessary in the establishment and operation of ***the*** [~~such~~] a plan.

(3) Cities of all classes, counties, ***charter counties,*** urban-county governments, the agencies of cities, counties, ***charter counties,*** and urban-county governments, and all other political subdivisions of the state ***may*** [~~are authorized to~~] provide disability, hospitalization, or other health or medical care coverage to their officers and employees, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase ***the*** [~~such~~] coverages.

(4) ***Any city, county, charter county, or urban-county government which is a contributing member to any one (1) of the retirement systems administered by the state may participate in the state health insurance coverage program for state employees as defined in KRS 18A.225 to 18A.229. Should any city, county, charter county, or urban-county government opt at any time to participate in the state health insurance coverage program, it shall do so for a minimum of three (3) consecutive years. If after the three (3)-year participation period, the city, county, charter county, or urban-county government chooses to terminate participation in the state health insurance coverage program, it will be excluded from further participation for a period of three (3) consecutive years. The three (3)-year participation and exclusion cycles shall take effect each time a city, county, charter county, or urban-county government changes its participation status.***

(5) Any city, county, ***charter county,*** urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employees and elected officers, shall annually give its employees an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of ***the*** [~~such~~] employees reside; except that if any city, county, ***charter county,*** urban-county government, or agencies of any city, county, ***charter county,*** urban-county government, or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of ***the*** [~~such~~] employees reside, the city, county, ***charter county,*** urban-county government, or agencies of the city, county, ***charter county,*** urban-county government, or any other political subdivision of the state may annually give its employees an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of ***the*** [~~such~~] employees reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, ***charter county,*** urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons, for any other hospitalization benefit shall be paid by the employee.

(6)[~~(5)~~] If an employee moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, ***the*** [~~such~~] employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(7)[~~(6)~~] Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(8)[~~(7)~~] The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(9)[~~(8)~~] After August 1, 1988, except as permitted by KRS 65.156, no new retirement plan shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city, county, ***charter county,*** urban-county, or agency thereof which provided a retirement plan for its employees, pursuant to this section, on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The city, county, ***charter county,*** urban-county, or agency thereof shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

The Committee Amendment No. 1 to **SB 164** is as follows:

On page 12, after line 23, by adding :

"Section 6. KRS 18A.2288 is amended to read as follows:

(1) If a member of one (1) of the state-administered retirement systems changes health insurance carriers from one (1) of the optional plans to the self-funded plan created pursuant to KRS 18A.2281 and the member has satisfied the pre-existing condition limitation in the optional plan, the member shall be covered in the self-funded plan without any limitation for pre-existing conditions.

(2) A member of the County Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer and who has satisfied any pre-existing condition limitation required by the group, shall, upon retirement and upon the member's application, receive coverage in the self-funded plan created pursuant to KRS 18A.2281 without any limitation for pre-existing conditions. ***This subsection also applies to a member of the Kentucky Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer, but not provided for in this chapter, who has satisfied any pre-existing condition limitation required by the group.***".

The Committee on Health and Welfare reported **SB 170, SB 180,** with Committee Amendment attached thereto, and **SB 243** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 170, AN ACT relating to water fluoridation programs for the protection of dental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.190 is amended to read as follows:

The cabinet shall provide public health services including [~~the following~~]:

(1) Administrative, consultative, technical, professional, and other services needed to assist local health departments in the effective maintenance and operation of their departments;

(2) Administrative, investigative, and clerical services required by the secretary of the cabinet for human resources, and may upon request provide ***these*** [~~such~~] services to any other agency of this Commonwealth authorized to control the practice of any other healing art;

(3) Administration of grants, gifts, or contributions from the federal government, or from other sources, for the purpose of carrying out the provisions of Public Law No. 725 (79th Congress, 2nd Session, chapter 958), or any other acts for the same or similar purposes;

(4) Central registrations of births, deaths, and other vital records and the furnishing of copies thereof to the general public in the manner prescribed by law;

(5) Statistical services, including the compilation, analysis, and maintenance of statistics on matters related to public health, and may provide ***these*** [~~such~~] services to organizations and persons interested in public health;

(6) Education of the public concerning all matters relating to health, including the publication and dissemination of health information, and the stimulation of citizen support for the promotion and maintenance of high standards of public health throughout the Commonwealth;

(7) Survey and study of the needs of medical and hospital facilities in the interest of the health of the general public;

(8) Establishment, maintenance, and operation of public health laboratories and such branches thereof as may be needed;

(9) Establishment, maintenance, and operation of training facilities and schools for employees of the cabinet and of local health departments;

(10) Tabulating, duplicating, and [~~such~~] other ancillary services as are necessary to the operation of the cabinet, including the keeping of adequate financial, personnel and other records***; and***

(11) Establishment, maintenance, monitoring, and enforcement of water fluoridation programs for the protection of dental health.

SB 180, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 212.640 is amended to read as follows:

In any county containing a city of the second class the fiscal court of the county and the legislative body of the city of the second class, may by joint action, establish a city-county health department. The department when established shall be governed by a city-county board of health composed of ***eleven (11)*** [~~seven (7)~~] members, one (1) of whom shall be either the mayor or city manager of the city, whichever is appointed by the city legislative body, one (1) of whom shall be the county judge/executive, one (1) of whom shall be a dentist, one (1) of whom shall be a registered nurse, and three (3) of whom shall be physicians***, one (1) of whom shall be a veterinarian, one (1) of whom shall be an engineer engaged in the practice of civil or sanitary engineering, one (1) of whom shall be an optometrist, and one (1) lay person knowledgeable in consumer affairs residing in each county and*** appointed in ***the same*** [~~like~~] manner as ***county board of health members*** [~~dental and physician members are appointed on county boards of health~~] and to hold office as provided in KRS 212.020.

Section 2. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class, an urban-county government, or which are part of an interstate metropolitan statistical area where the Kentucky population of the metropolitan statistical area exceeded two hundred fifty thousand (250,000) people on July 1, 1989, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per fifteen thousand (15,000) population or fraction thereof, which shall include the mayor ***or city manager*** of each city of the second class as an ex officio voting member, except that the total number of members from any county in a district shall not exceed seven (7) members.

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the county or city-county boards of health from the membership of each county or city-county board of health.

(a) The secretary of the Cabinet for Human Resources shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring.

(b) Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county. At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the district board shall be doctors of medicine or osteopathy qualified, licensed, and practicing in the Commonwealth, and there shall be at least one (1) qualified, licensed, and practicing registered nurse, one (1) qualified, licensed, and practicing dentist, one (1) qualified licensed engineer engaged in the practice of civil or sanitary engineering, one (1) qualified, licensed, and practicing optometrist, and one (1) qualified, licensed, and practicing veterinarian, when available, among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(c) The chairman of the county or city-county board of health shall inform the secretary with forty-five (45) days of receipt of this notification of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the time the secretary has certified their eligibility to serve on the board.

(3) If a vacancy exists upon the district board, the vacancy shall be filled in a manner consistent with subsection (2) of this section, with the appointed member to fill the vacant seat coming from the county in which the vacancy occurs and the appointed member resides. If the term of a member on the county board of health expires or the member cannot complete the term on the county board, the seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on December 31 or until their successors are appointed. The terms of the first appointments shall be staggered so that members whose terms expire on June 30, 1992, shall be replaced with appointed members whose terms expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall be replaced with appointed members whose terms expire on December 31, 1995.

(5) The secretary shall remove any appointed member who fails to attend three (3) consecutive scheduled meetings.

The Committee Amendment No. 1 to **SB 180** is as follows:

On page 1, line 6, after "mayor" by inserting an underlined comma and placing brackets and strikethroughs around "or";

On page 1, line 6, after "manager" by inserting the following: "***or the designee of the city manager***";

On page 1, line 24, after "mayor" by deleting "***or***" and inserting in lieu thereof and underlined comma;

And on page 1, line 24, after "***manager***" by inserting the following: "***or the designee of the city manager***".

SB 243, AN ACT relating to the certificate of need process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.062 is amended to read as follows:

(1) Applications for certificates of need shall be submitted according to timetables established by the commission by administrative regulation. ***The application for a certificate of need shall include the name and business address of any owner, investor, or stockholder in the project whose ownership interest is greater than ten percent (10%).*** Once an application has been deemed complete pursuant to the commission's adopted regulations, notice shall be given as provided by the regulations of the beginning of the review, the proposed review schedule, and the right to request a hearing. The review shall be deemed to commence on the date of notice. No review shall take longer than ninety (90) days from the commencement of the review unless the applicant agrees to a deferral of action.

(2) Applications proposing the same or similar types of services, facilities, or equipment shall be batched for review purposes, excluding those granted nonsubstantive review status. The commission shall by regulation establish appropriate batching groups to assure that applications for each type of service, facility, or equipment will be eligible for consideration at set intervals. In each review batch, the commission shall review and, if appropriate, compare all timely filed applications proposing similar types of services, facilities, or equipment in the same health service areas.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

No holder of a certificate of need for a new health facility shall sell, trade, or transfer a certificate of need to any other person. Any person who violates this section shall be guilty of a Class B misdemeanor.

Section 3. KRS 216B.086 is amended to read as follows:

(1) The commission may revoke a certificate of need, or portion thereof, for failure of the holder of the certificate to implement the project in accordance with timetables and standards for implementation established by administrative regulation of the commission***; however, for projects involving long-term care beds, the commission may revoke any certificate granted which is not implemented within twenty-four (24) months or within any six (6) month reporting interval during which there is not satisfactory progress in meeting the project timetable and shall revoke any certificate granted which is not implemented within thirty-six (36) months. The administrative regulation for projects involving long-term care beds shall be based on project completion in twenty-four (24) months and shall specify criteria for measuring implementation of project objectives at six (6) month reporting intervals. If, at any six (6) month reporting period, the certificate holder is able to show good cause as to why a project failed to meet its timetables, an extension of six (6) months may be granted to meet that particular timetable. The burden of proof shall be on the certificate holder. In no case shall an extension be granted beyond a total of thirty-six (36) months. The holder of the certificate of need shall file with the commission the name and business address of all owners, investors, and stockholders in the project whose ownership interest is greater than ten percent (10%). All reports submitted by the certificate holder under this subsection shall be considered a public record in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.***

(2) The commission shall give notice to the holder of the certificate of its initial decision to revoke the certificate of need or portion thereof. The commission's initial decision to revoke a certificate of need or portion thereof shall become final after thirty (30) days unless a hearing is requested. The chairman shall give notice to the holder of the certificate of a decision which has become final under the provisions of this subsection.

(3)[~~(2)~~] The holder of the certificate of need to be revoked may request in writing a public hearing in respect to an initial decision by the commission to revoke a certificate of need within thirty (30) days of the date of notice of the initial decision. Failure to request a hearing shall constitute a waiver of any right to reconsideration or judicial appeal of a final commission decision to revoke a certificate of need.

(4)[~~(3)~~] The hearing shall be before the commission, or at the request of the chairman, before a member of the commission designated by the chairman to be the hearing officer. The hearing shall be no later than thirty (30) days after the request for the hearing is filed.

(5)[~~(4)~~] ***If*** [~~In the event~~] a hearing is requested, the chairman shall set a date, time, and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the commission.

(6)[~~(5)~~] At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the revocation of the certificate of need, and may conduct reasonable cross-examination under oath of persons who testify. A full and complete record shall be maintained of the hearing, and all testimony shall be recorded but not be transcribed unless the commission's final decision is appealed pursuant to this chapter.

(7)[~~(6)~~] After the issuance of an initial decision to revoke a certificate of need and before a final decision is made, no person shall have ex parte contacts with members of the commission regarding the revocation. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(8)[~~(7)~~] If a hearing is requested after notice of the commission's initial decision to revoke a certificate of need, the commission shall make a final decision at its next regularly scheduled meeting after the hearing. Any final decision revoking a certificate of need shall be made by the commission in writing and shall be recorded in the minutes of the commission. The commission shall notify the parties to the proceedings of the final decision.

(9)[~~(8)~~] Any final decision of the commission to revoke a certificate of need shall be based solely on the record established with regard to the revocation.

(10)[~~(9)~~] Except as provided in subsection ***(3)***[~~(1)~~] of this section, reconsideration pursuant to KRS 216B.090 or judicial appeal pursuant to KRS 216B.115 ***shall be*** [~~is~~] available with regard to a final decision of the commission to revoke a certificate of need.

Calendar

HCR 42, HCR 95, HJR 96, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103, HCR 104, HB 727, HB 821, SB 29, SB 89, SB 153, SB 172, SB 184, SB 186, HB 735, HR 76, SB 258, SB 267, SB 271, SB 280, HB 828, HR 58, HR 61, SB 33, SB 205, SB 227, SB 228, SB 237, SJR 51, HB 655, HB 866, HCR 33, HR 93, SB 225, SB 248, SB 281, SB 301, SCR 65 and **SB 74** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 626**, by Representative Simpson:

On page 2, line 19 to delete the brackets around and strike through of "or a juvenile holding facility"; and

On page 2, line 21, to delete the brackets around and strike through of "or juvenile holding facility"; and

On page 2, lines 22 and 23, to delete the brackets around and strike through of "or a juvenile holding facility"; and

On page 6, line 25, to delete "***to operate until June 30, 1997***".

Floor Amendment No. 1 to **HB 728**, by Representative Simpson:

On page 14, line 18, by inserting a bracket after "citation"; and

On page 14, lines 19 and 20, by removing the brackets and strikethrough from"(5) The procedure for citations issued by an enforcement officer shall be as provided in KRS 431.015".

Floor Amendment No. 3 to the Committee Substitute to **HB 455**, by Representative Barrows:

On page 1, beginning on line 1 and ending on page 4, line 16, by deleting the language in its entirety; and

On page 4, line 17, by deleting "Section 2." and inserting in lieu thereof "Section 1."; and

On page 5, line 12, by deleting "Section 3." and inserting in lieu thereof "Section 2."; and

On page 10, by deleting lines 1 and 2 in their entirety; and

On page 10, line 3, by deleting "Section 5." and inserting in lieu thereof "Section 4."; and

On page 10, line 3, by deleting "Sections 2 and 3" and inserting in lieu thereof "Sections 1 and 2".

Orders of the Day

HB 402, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 402**. Agreed.

Representative Lee moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 402**. Agreed.

Representative Coleman moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 402**. Agreed.

Representative Brown moved that **HB 402**, by way of Committee Substitute as amended, be passed.

Representative French moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 402**.

Representative Farrow inquired if Floor Amendment No. 6 was germane to **HB 402**.

The Speaker ruled that Floor Amendment No. 6 was not germane to **HB 402**.

Representative Brown moved that **HB 402**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 63, Nays 26. (See March 18, 1994 roll call on **HB 402** - Appendix)

HB 402, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 402**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 940 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HB 940** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18 , 1994 roll call on **HB 940** - Appendix)

HB 940 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 940** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 70, SB 73, SB 77, SB 98, SB 99, SB 128, SB 159, SB 160, SB 161, SB 167** and **SB 174** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:43 a.m.)

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 455**, by Representative Rasche:

On page 1, line 23, after "81," by inserting "*twenty-five cents (\$0.25)*"; and

On page 1, line 23, by inserting a closing bracket "]" after "(\$0.15)" and removing the strikethroughs from the remainder of that line; and

On page 1, line 24, by removing the closing bracket "]" and removing the strikethroughs.

Orders of the Day (Continued)

HR 89 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of **HR 89**.

HR 89 was adopted by voice vote.

HB 633, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fox moved the adoption of the Committee Substitute to **HB 633**. Agreed.

Representative Fox moved that **HB 633**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18, 1994 roll call on **HB 633** - Appendix)

HB 633, by way of Committee Substitute, was passed and the title agreed to.

Representative Fox moved that the vote by which **HB 633**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 48, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 48**. Agreed.

Representative Donnermeyer moved that **HB 48**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 18, 1994 roll call on **HB 48** - Appendix)

HB 48, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 48**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 775 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HB 775** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18 , 1994 roll call on **HB 775** - Appendix)

HB 775 was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 775** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 52**, by Representative Brown:

On page 1, line 1, after "ratifies" by inserting, "***, in all substantial regards,***"; and

On page 13, line 27, after "***exclusion***" by inserting "***applied throughout this compact***"; and

On page 14, line 3, after "***Article VII(a)(6)***" by inserting "***, or waste generated by the United States Energy Corporation, its lessees or successors***".

Orders of the Day (Continued)

HB 444 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 444** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 18 , 1994 roll call on **HB 444** - Appendix)

HB 444 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 444** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 419 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mullinix moved that **HB 419** be passed.

On the roll call the vote was: Yeas 68, Nays 15. (See March 18 , 1994 roll call on **HB 419** - Appendix)

HB 419 was passed and the title agreed to.

Representative Mullinix moved that the vote by which **HB 419** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 631 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 631** be passed.

On the roll call the vote was: Yeas 86, Nays 4. (See March 18 , 1994 roll call on **HB 631** - Appendix)

HB 631 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 631** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 674 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 674** be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 18 , 1994 roll call on **HB 674** - Appendix)

HB 674 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 674** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 258**, by Representative Brown:

On page 5, after line 14, by inserting:

"Section 4. KRS 45A.500 is amended to read as follows:

It is the finding of the General Assembly that a necessary component of waste management must be to reduce the quantity of waste; that recycling reduces the quantity of solid waste and reduces the costs to the state and local governments for collecting, transporting, landfilling, or incinerating solid waste, reduces litter on roadsides and waterways, creates income producing opportunities, and conserves energy and raw materials. It is also the finding of the General Assembly that *state and local governments, state colleges and universities, and local school districts make* [~~government makes~~] purchases in large volumes which significantly *affect* [~~affects~~] the availability, variety, price, and consumer acceptance of the products and services purchased [~~by government~~]. The General Assembly further finds that by eliminating policies and practices which discriminate against [~~government~~] procuring recycled material content products as well as products and services compatible with recycled material content goods, and that by requiring [~~government~~] purchases of products which contain the maximum possible amount of recycled materials, the availability and variety of recycled material content products will increase and removal and recycling of materials from the solid waste stream will grow. Finally, the General Assembly finds that instituting policies and practices to stimulate the availability and use of recycled material content products will help educate business and individual consumers about the value of recycling as a component of a waste management policy.

Section 5. KRS 45A.510 is amended to read as follows:

Nothing in KRS 45A.500 to 45A.540 shall prohibit a state agency*, a county, a city, a school district, a special district, or a state college or university* from purchasing goods, supplies, equipment, materials, and printing for which a recycled material content substitute is not available or when the *purchaser* [~~state agency~~] can justify specifications for goods, supplies, equipment, materials, and printing which cannot be met by recycled material content substitutes.

Section 6. KRS 45A.520 is amended to read as follows:

Every state agency*, county, city, school district, special district, and state college or university* shall when purchasing goods, supplies, equipment, materials, and printing require a minimum recycled material content for those goods, supplies, equipment, materials, and printing. The recycled material content shall be established by administrative regulations to be promulgated by the Finance and Administration Cabinet by September 1, 1991. For those products which the United States Environmental Protection Agency has established minimum recycled content procurement guidelines promulgated pursuant to the Resource Conservation and Recovery Act of 1976, as amended, the Finance and Administration Cabinet shall adopt, at a minimum, the recycled material content standards equal to those established by the United States Environmental Protection Agency.

Section 7. KRS 45A.540 is amended to read as follows:

Every county, city, school district, [~~and~~] special district*, and state college or university* may purchase goods, supplies, equipment, material, and printing which meet the procurement standards for minimum recycled material content through the central stores branch of the Division of Purchases in the Finance and Administration Cabinet. Counties, cities, school districts, [~~and~~] special districts*, and state colleges or universities* which purchase goods, supplies, equipment, material, and printing which meet the procurement standards established pursuant to KRS 45A.520 for minimum recycled material content shall receive a fifty percent (50%) reduction in any administrative fee the central purchasing agency is authorized to charge."

Floor Amendment No. 3 to the Committee Substitute to **HB 679**, by Representative Burch:

On page 1, By deleting lines 1 through 25 and inserting in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 and Section 9 of this Act unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 1 to 8 and Section 9 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 1 to 8 and Section 9 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 1 to 8 and Section 9 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 1 to 8 and Section 9 of this Act. Each local health department, or district health department that agrees to enforce Sections 1 to 8 and Section 9 of this Act shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 1 to 8 and Section 9 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 1 to 8 and Section 9 of this Act.

Section 8. KRS 438.045 is amended to read as follows:

(1) No person shall ~~[knowingly]~~ sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or ~~[knowingly]~~ solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation.

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** ~~[provide]~~ cigarettes or tobacco products***, including*** ~~[or]~~ samples thereof***,*** free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** ~~[twenty-five]~~ dollars ***($100)*** ~~[($25)]~~ nor more than ***two hundred fifty*** ~~[one hundred]~~ dollars ***($250)*** ~~[($100)]~~ for each offense. ***The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.***"

And by deleting pages 2 through 6 in their entirety.

Orders of the Day (Continued)

HB 725, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 725**. Agreed.

Representative Stacy moved that **HB 725**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 18, 1994 roll call on **HB 725** - Appendix)

HB 725, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 725**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 67 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **SB 67** be passed.

On the roll call the vote was: Yeas 70, Nays 20. (See March 18 , 1994 roll call on **SB 67** - Appendix)

SB 67 was passed and the title agreed to.

Representative Mason moved that the vote by which **SB 67** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 48 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farley moved that **HCR 48** be adopted.

On the roll call the vote was: Yeas 66, Nays 17. (See March 18 , 1994 roll call on **HCR 48** - Appendix)

HCR 48 was adopted.

Representative Farley moved that the vote by which **HCR 48** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 871, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of Committee Amendment No. 1 to **HB 871**. Agreed.

Representative Marzian moved that **HB 871**, as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 6. (See March 18, 1994 roll call on **HB 871** - Appendix)

HB 871, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 871**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 922, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 922**. Agreed.

Representative Marzian moved that **HB 922**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 53, Nays 16. (See March 18, 1994 roll call on **HB 922** - Appendix)

HB 922, by way of Committee Substitute, was passed.

Representative Marzian moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 922**. Agreed; and the title was agreed to.

Representative Marzian moved that the vote by which **HB 922**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 65 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Noland moved that **HR 65** be adopted.

HR 65 was adopted by voice vote.

HB 690 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative French moved that **HB 690** be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 18 , 1994 roll call on **HB 690** - Appendix)

HB 690 was passed and the title agreed to.

Representative French moved that the vote by which **HB 690** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 697 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HB 697** be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See March 18 , 1994 roll call on **HB 697** - Appendix)

HB 697 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 697** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendment (Continued)

Floor Amendment No. 1 to **SB 49**, by Representative Brown:

On page 3, line 18, after "***Energy,***" by inserting "***owned or generated by the United States Energy Corporation, its lessees or successors,***"; and

On page 6, after line 12, by inserting:

"Section 1. The Cabinet for Human Resources shall assign a representative of the Radiation Control Branch to monitor implementation of the Central Midwest Low-Level Radioactive Waste Compact. The representative shall have experience and knowledge at least equal to the Radiation Control Branch Manager and shall not be the Kentucky commissioner to the compact. The specific responsibilities of the representative shall include, but not be limited to, advising the Governor's Office, the secretary of the Cabinet for Human Resources, and the Interim Joint Committee on Agriculture and Natural Resources on technical aspects of the compact implementation with the perspective of protecting the interests of the Commonwealth.

Section 2. The Cabinet for Human Resources is directed to seek a memorandum of understanding with the Illinois Department of Nuclear Safety. The goal of the memorandum shall be to establish procedures to inform representatives of the compact states of changes that may be necessary to the compact prior to the changes being made by Kentucky or Illinois."

Orders of the Day (Continued)

HB 924, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Committee Amendment No. 1 to **HB 924**. Agreed.

Representative Zimmerman inquired if there was a fiscal impact on **HB 924**.

Representative Jensen moved that **HB 924** be laid on the Clerk's Desk. Rejected.

Representative Zimmerman inquired why there was not a fiscal impact statement on **HB 924**.

Representative Riner noted that a fiscal impact statement was included on **HB 924**.

The Speaker confirmed that a fiscal impact statement was included on **HB 924**.

Representative Jensen inquired if **HB 924** has to go before the Committee on Appropriations and Revenue.

The Speaker replied that the Committee on Rules determines the Committee to which a Bill is referred.

Representative Riner moved that **HB 924**, as amended, be passed.

On the roll call the vote was: Yeas 37, Nays 48. (See March 18, 1994 roll call on **HB 924** - Appendix)

HB 924, as amended, was defeated.

HB 98, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute to **HB 98**. Agreed.

Representative Bowling moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 98**. Agreed.

Representative Bowling moved that **HB 98**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18, 1994 roll call on **HB 98** - Appendix)

HB 98, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 98**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 7 to **SB 221**, by Representative Riggs:

On page 7, between lines 16 and 17, by inserting the following:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established, as a 501(c)(3) organization within the meaning of the Internal Revenue Code of 1986, the Kentucky News Council to be located at the University of Kentucky in the School of Journalism. The council shall conduct public forums, programs, and seminars on media ethics; conduct research and commission studies on media ethics and publish the results; and conduct hearings on citizen complaints against the news media and make and disseminate findings that are nonbinding on the parties.

(2) (a) The council shall be composed of eleven (11) members. One (1) member shall represent each of the following categories:

1. Former judges or employees of the Judicial Branch;

2. Former elected officials or employees of the Executive Branch;

3. Former legislators or employees of the Legislative Branch;

4. Individuals who were formerly owners, managers, or employees in the print media; and

5. Individuals who were formerly owners, managers, or employees in the broadcast media.

The remaining six (6) members shall represent the community at large, except that persons currently employed by government, shall be ineligible to serve as members of the council.

(b) The initial appointments to the council shall be made by the Governor and shall be staggered as follows: three (3) members shall be appointed for a two (2) year term; four (4) members shall be appointed for a three (3) year term; and four (4) members shall be appointed for a four (4) year term. Thereafter, the council shall be self-perpetuating and elect members to fill vacancies as they occur. Members shall be appointed to serve a four (4) year term and initial members may be reappointed by the council upon the expiration of their initial term. KRS 63.080(1) shall not apply to appointments made under this subsection.

(3) The council shall meet at least two (2) times a year for organizational and administrative purposes and at other times upon call of the chairman or a majority of the council. Participation in the activities of the council shall be voluntary. Members shall not receive compensation or reimbursement for expenses incurred in connection with service on the council.

(4) The council may elect officers and determine the terms of office. The council shall appoint an executive director who is a member of the faculty of the School of Journalism and employ other staff as it deems necessary. Salaries for employees shall be paid from the endowment fund as established for operation of the council.

(5) Citizens may file complaints against news media on the bases of inaccurate information or unfair coverage of the complainant or on behalf of the community. The council shall promulgate administrative regulations, as provided in KRS Chapter 13A, establishing policies and procedures for conducting an informal hearing in accordance with the following:

(a) A complainant shall first demonstrate to the council that he has made a good faith effort to resolve the issue with the appropriate news medium. Upon determining that a complainant has met this standard, the council shall furnish the complainant with the appropriate forms for filing a complaint and direct that an informal hearing be held.

(b) Prior to scheduling a hearing, the council shall notify the media agency that a complaint has been filed; an informal hearing on the issue in controversy shall be conducted; responses to the complaint and appearances by media agency representatives at the hearing shall be voluntary; and the council's finding and determinations shall not be binding on the media.

(c) The council shall schedule an informal hearing and notify all parties of the date and time for the hearing. Appearances of the complainants and media representatives shall be voluntary.

(d) A complainant shall waive the right to sue the news media over the issue and shall sign a form waiving the right before the commencement of the hearing.

(e) Parties at the hearing may be accompanied by attorneys, but those attorneys may not speak on behalf of those they represent.

(f) All meetings of the council are subject to the KRS 61.805 to 61.850, relating to open meetings.

(g) Findings of the council shall be disseminated to the broadcast and print media in Kentucky, with an encouragement to publish or broadcast the findings."; and

On page 7, by deleting line 17 in its entirety and inserting in lieu thereof:

"Section 13. Sections 1 to 11 of this Act shall be known as the Pilot Personnel Program Act.".

Floor Amendment No. 6 to **SB 221**, by Representative Riggs:

By amending the title to read as follows:

"AN ACT relating to state agencies and personnel thereof."

Floor Amendment No. 4 to **SB 136**, by Representative Marzian:

On page 3, below line 27, by adding the following new subsection:

"*(11) Each insurer in the Commonwealth issuing policies or contracts under Subtitles 18, 32, or 38 of KRS Chapter 304 and who has issued the policy or contract to a person who is the parent of any dependent minor petitioning to obtain consent pursuant to the requirements of this section, and who is denied consent by any Circuit or District Court, shall cover all medically necessary services related to the minor's pregnancy and delivery.*"

Orders of the Day (Continued)

HB 455, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 455**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 455**. Agreed.

Representative Long moved that **HB 455**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 56, Nays 40. (See March 18, 1994 roll call on **HB 455** - Appendix)

HB 455, by way of Committee Substitute as amended, was passed.

Representative Long moved the adoption of the Committee Title Amendment to the Committee Substitute to **HB 455**. Agreed; and the title was agreed to.

Representative Long moved that the vote by which **HB 455**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 182, SB 331, SB 351, HB 47, HB 337, HB 339, HB 341, HB 534, HB 660, HB 661, HJR 50, HCR 53** and **HJR 52**. Message received on **HB 191**: The Senate has passed **HB 191** by way of Senate Committee Substitute and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body. (Time: 12:28 p.m.)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Representative Bowling moved that the rules be suspended to introduce guests. Agreed.

HB 901 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HB 901** be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See March 18 , 1994 roll call on **HB 901** - Appendix)

HB 901 was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 901** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 408, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 408**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 2 to **HB 408**. Agreed.

Representative Burch moved that **HB 408**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 18, 1994 roll call on **HB 408** - Appendix)

HB 408, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 408**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 433, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sanders moved the adoption of Committee Amendment No. 2 to **HB 433**. Agreed.

Representative Sanders moved that **HB 433**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 18, 1994 roll call on **HB 433** - Appendix)

HB 433, as amended, was passed and the title agreed to.

Representative Sanders moved that the vote by which **HB 433**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 517**. Agreed.

Representative Barrows moved that **HB 517**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18, 1994 roll call on **HB 517** - Appendix)

HB 517, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 517**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 559, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Committee Amendment No. 1 to **HB 559**. Agreed.

Representative Collins moved that **HB 559**, as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 1. (See March 18, 1994 roll call on **HB 559** - Appendix)

HB 559, as amended, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 559**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 683, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of Committee Amendment No. 1 to **HB 683**. Agreed.

Representative R. Smith moved that **HB 683**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 18, 1994 roll call on **HB 683** - Appendix)

HB 683, as amended, was passed.

Representative R. Smith moved the adoption of the Committee Title Amendment to **HB 683**. Agreed; and the title was agreed to.

Representative R. Smith moved that the vote by which **HB 683**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 888, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 888**. Agreed.

Representative Long moved that **HB 888**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See March 18, 1994 roll call on **HB 888** - Appendix)

HB 888, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 888**, by way of Committee Substitute, was passed be

reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 755**, by Representative B. Smith:

On page 2, line 15 after "***to***" by deleting "***or***";

On page 2, line 16, before "***an***" by deleting "***by***";

On page 2, line 16, after "***an***" by deleting "***unauthorized***";

On page 3, line 18, after "***corporation***" by inserting "***, partnership, company, or other legal entity***"; and

On page 4, line 2, after "***corporation***" by inserting "***, partnership, company, or other legal entity***".

Orders of the Day (Continued)

HB 832, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 832**. Agreed.

Representative Barrows moved that **HB 832**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 1. (See March 18, 1994 roll call on **HB 832** - Appendix)

HB 832, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 832**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 605, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Amendment No. 1 to **HB 605**. Agreed.

Representative Mason moved that **HB 605**, as amended, be passed.

On the roll call the vote was: Yeas 46, Nays 29. (See March 18, 1994 roll call on **HB 605** - Appendix)

HB 605, as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 605**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 283, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 283**. Agreed.

Representative Brown moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 283**. Agreed.

Representative Brown moved that **HB 283**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 1. (See March 18, 1994 roll call on **HB 283** - Appendix)

HB 283, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 283**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 926 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 926** be passed.

On the roll call the vote was: Yeas 74, Nays 6. (See March 18 , 1994 roll call on **HB 926** - Appendix)

HB 926 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 926** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 73 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stengel moved that **HCR 73** be adopted.

On the roll call the vote was: Yeas 76, Nays 2. (See March 18 , 1994 roll call on **HCR 73** - Appendix)

HCR 73 was adopted.

Representative Stengel moved that the vote by which **HCR 73** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 842, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 842**. Agreed.

Representative Rasche moved that **HB 842**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 18, 1994 roll call on **HB 842** - Appendix)

HB 842, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 842**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 894 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 894** be passed.

On the roll call the vote was: Yeas 70, Nays 5. (See March 18 , 1994 roll call on **HB 894** - Appendix)

HB 894 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 894** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 10**, by Representative Bruce:

On page 1, by deleting the language on lines 3 and 4 and inserting the following language in lieu thereof:

"***In order to better protect the public health, safety, and financial resources of the Commonwealth, it shall be unlawful for:***

(1) Persons of the same sex to engage in deviate sexual intercourse; and

(2) The Commonwealth, or any state or local public agency, county, or municipal government, or agency thereof, or any public officer or public employee, as a policy of government, to use their position or the facilities and resources of the Commonwealth to sanction activities or programs which legitimize, promote, condone, or permit the activities and practices prohibited in subsection (1).

Section 2. Upon the passage and approval of this amendment by the voters, KRS 510.100 shall have full force and effect, until the statute is amended or repealed by the General Assembly.

Section 3. Notwithstanding any provision of KRS 118.415(2) to the contrary, this proposed amendment shall be summarized on the ballot and be presented to the voters in the following language:

"Do you want to better protect the public health, safety, and financial resources of the Commonwealth by prohibiting persons of the same sex from engaging in deviate sexual intercourse, and prohibit government from promoting, protecting, or condoning such activity? A "YES" vote will restore the present statute which has been declared unconstitutional.""; and

On page 1, line 5, by deleting "2" and inserting in lieu thereof "4".

Floor Title Amendment to **HB 10**, by Representative Bruce:

By amending the title to read "AN ACT proposing an amendment to the Constitution of Kentucky relating to the ability of the General Assembly to prohibit illegal activity.".

Floor Amendment No. 2 to **SB 49**, by Representative Brown:

On page 3, line 24, after "***Energy,***" by inserting "***owned or generated by the United States Energy Corporation, its lessees or successors,***"; and

On page 6, after line 12, by inserting:

"Section 1. The Cabinet for Human Resources shall assign a representative of the Radiation Control Branch to monitor implementation of the Central Midwest Low-Level Radioactive Waste Compact. The representative shall have experience and knowledge at least equal to the Radiation Control Branch Manager and shall not be the Kentucky commissioner to the compact. The specific responsibilities of the representative shall include, but not be limited to, advising the Governor's Office, the secretary of the Cabinet for Human Resources, and the Interim Joint Committee on Agriculture and Natural Resources on technical aspects of the compact implementation with the perspective of protecting the interests of the Commonwealth.

Section 2. The Cabinet for Human Resources is directed to seek a memorandum of understanding with the Illinois Department of Nuclear Safety. The goal of the memorandum shall be to establish procedures to inform representatives of the compact states of changes that may be necessary to the compact prior to the changes being made by Kentucky or Illinois."

Orders of the Day (Continued)

HCR 80, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HCR 80**. Agreed.

Representative Palumbo moved that **HCR 80**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 73, Nays 2. (See March 18, 1994 roll call on **HCR 80** - Appendix)

HCR 80, by way of Committee Substitute, was adopted.

Representative Palumbo moved that the vote by which **HCR 80**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that the rules be suspended to make the following motions:

Representative Stumbo moved that **HB 749** be recommitted to the Committee on Education. Agreed.

Representative Stumbo moved that **HB 811** be recommitted to the Committee on Counties and Special Districts. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 266**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 311**. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **SB 171**

Agriculture and Small Business: **HR 106**

Judiciary: **SB 55, SB 213, SB 222**

Business Organizations and Professions: **SB 307, SB 320**

State Government: **SB 80, SB 289, SB 344, SCR 74**

Report of Committees (Continued)

The Committee on Banking and Insurance reported **SB 151,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 151, AN ACT relating to insurance payments for services performed by podiatrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17-305 is amended to read as follows:

(1) When any policy of health insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of an optometrist duly licensed as provided in KRS Chapter 320, the insured or other person entitled to benefits under such policy shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician, osteopath, or optometrist, notwithstanding any provision contained in such policy, or if the policy so provides, payment may be made directly to the provider of the services.

(2) When any policy of health insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of a chiropractor duly licensed under KRS Chapter 312, the insured or other person entitled to benefits under such policy shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician, osteopath or chiropractor, notwithstanding any provision contained in such policy; or if the policy so provides, payment may be made directly to the provider of the services.

(3) When any policy of health insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of a podiatrist duly licensed under KRS Chapter 311, the insured or other person entitled to benefits under that policy shall be entitled to reimbursement for those services, whether those services are performed by a duly licensed physician, osteopath, chiropractor, or podiatrist, notwithstanding any provision contained in the policy, or if the policy so provides, payment may be made directly to the provider of the services.

Section 2. KRS 304.18-095 is amended to read as follows:

(1) When any policy or group insurance or blanket health insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of an optometrist duly licensed as provided in KRS Chapter 320, the insured or other person entitled to benefits under such policy shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician, osteopath, or optometrist, notwithstanding any provision contained in such policy, or if the policy so provides, payment may be made directly to the provider of the services.

(2) When any policy or group insurance or blanket health insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of a chiropractor duly licensed under KRS Chapter 312, the insured or other person entitled to benefits under such policy shall be entitled to reimbursement for such services, whether such services are performed by a duly licensed physician, osteopath, or chiropractor, notwithstanding any provision contained in such policy; or if the policy so provides, payment may be made directly to the provider of the services.

(3) When any policy of group insurance or blanket health insurance issued in this state provides for reimbursement for any service which is within the lawful scope of practice of a podiatrist duly licensed under KRS Chapter 311, the insured or other person entitled to benefits under that policy shall be entitled to reimbursement for those services, whether those services are performed by a duly licensed physician, osteopath, chiropractor, or podiatrist, notwithstanding any provision contained in the policy, or if the policy so provides, payment may be made directly to the provider of the services.

Section 3. KRS 304.38-196 is amended to read as follows:

(1) Any certificate, agreement or contract issued in this state by a health maintenance organization which provides coverage for any service which is within the lawful scope of practice of a chiropractor duly licensed under KRS Chapter 312, shall be deemed to provide benefits for such services whether performed by a duly licensed physician, osteopath, or chiropractor, notwithstanding any provision contained in the certificate, agreement or contract. An enrollee requesting chiropractic treatment for otherwise covered conditions shall not unreasonably be denied chiropractic treatment if treatment of the conditions is within the lawful scope of chiropractic practice.

(2) Any certificate, agreement, or contract issued in this state by a health maintenance organization which provides coverage for any service which is within the lawful scope of practice of a podiatrist duly licensed under KRS Chapter 311, shall be deemed to provide benefits for those services whether performed by a duly licensed physician, osteopath, chiropractor, or podiatrist, notwithstanding any provision contained in the certificate, agreement, or contract.

The Committee Amendment No. 1 to **SB 151** is as follows:

On page 1, after line 23 and before line 24, by inserting:

"***(4) Nothing in this section shall require an individual health insurance policy which places the insured within a***

preferred or exclusive provider arrangement to cover services by a provider with whom the insurer does not have a contract, or to make payment of or reimbursement for the cost of any service which exceeds the limits of the policy."; and

On page 2, after line 23 and before line 24, by inserting:

"***(4) Nothing in this section shall require a group or blanket health insurance policy which places the insured within a preferred or exclusive provider arrangement to cover services by a provider with whom the insurer does not have a contract, or to make payment of or reimbursement for the cost of any service which exceeds the limits of the policy.***"

On page 3, after line 13 by adding:

"***(3) Nothing in this section shall require a policy issued by a health maintenance organization which places the insured within a preferred or exclusive provider arrangement to cover services by a provider with whom the insurer does not have a contract, or to make payment of or reimbursement for the cost of any service which exceeds the limits of the policy.***".

The Committee Amendment No. 2 to **SB 151** is as follows:

On page 3, after line 13, by adding:

"Section 4. KRS 18A.2288 is amended to read as follows:

(1) If a member of one (1) of the state-administered retirement systems changes health insurance carriers from one (1) of the optional plans to the self-funded plan created pursuant to KRS 18A.2281 and the member has satisfied the pre-existing condition limitation in the optional plan, the member shall be covered in the self-funded plan without any limitation for pre-existing conditions.

(2) A member of the County Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer and who has satisfied any pre-existing condition limitation required by the group, shall, upon retirement and upon the member's application, receive coverage in the self-funded plan created pursuant to KRS 18A.2281 without any limitation for pre-existing conditions. ***This subsection also applies to a member of the Kentucky Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer, but not provided for in this chapter, who has satisfied any pre-existing condition limitation required by the group.***".

Introduction of Bills and Resolutions

HCR 108, by Representatives Long, L. Clark, Richards, Stumbo, Clarke and Rapier: A CONCURRENT RESOLUTION requesting that the Governor include the issue of the tax treatment of private pensions on the call of any special session call on tax reform.

Motions, Petitions and Communications (Continued)

The following member filed a request to have his name added as co-sponsor to a Bill: **HB 683**, Representative Barrows.

Representative McElroy moved the adoption of the following **Legislative Citation No. 120**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Edward & Freda W. Royster for fifty sterling years of beloved companionship and an exemplary marriage. For no other qualities can be held in equal esteem as the extraordinary abilities to nurture and cultivate the relationship between two people that creates a loving family and cherished friendship. This honorable body recognizes those unique attributes in Edward and Freda Royster and wishes for them continued golden years of marital bliss and

Representative Mason moved the adoption of the following **Legislative Citation No. 121**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Henry "Hut" Hutton for the monumental contribution made to the Fleming-Neon community. For in as much as Henry "Hut" Hutton experienced life as a coal miner, and served his friends and neighbors as a constable; mayor pro-tem of Fleming-Neon and gave a phenomenal part of himself meeting extraordinary challenges to make that significant difference in his community. In life said recipient was honoree of the Woodson Award from Berea College that remains as a living monument to his exceptional life. Let those who mourn his passing take heed that the honorable House of Representatives does extend most heartfelt sympathy to the Hutton family and the Fleming-Neon community for their devastating loss.

Representative Hancock moved the adoption of the following **Legislative Citation No. 122**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Laura Hasselwander. Laura Hasselwander, a well respected Legislative Research Commission Photographer, is described by her co-workers as level headed, practical almost to a fault, sweet, one with a sense of humor and a smile that can erase the troubles of the day. It is the intent of this prestigious body to join with Representative C. M. "Hank" Hancock in granting Laura our permission to marry her intended young attorney, Mark Weiss, May 27, 1994 and to furthermore have a blissful life.

Representative Riner moved that **HB 924** be withdrawn. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Coleman moved that he be recorded as voting "yea" on **SB 67**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Damron moved that his vote be changed from "yea" to "nay" on **HB 302**. Agreed.

Representative Donnermeyer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 631**. Agreed.

Announcements

The Clerk announced the following meetings;

Committee on Rules, upon adjournment, Speaker's Office

Health and Welfare, upon adjournment, Room 129

State Government, upon adjournment, March 22, 1994, Room 149

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 21, 1994.

On the roll call the vote was **Yeas 70**--Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Brown, Bryant, Butler, Callahan, Cave, Clarke, Coleman, Collins, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Johnson, Lear, Lee, Lewis, Lindsay, Marzian, Mason, McElroy, Moberly, Morris, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Ridley, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 3**--LeMaster, Lile, Scorsone.

The motion to adjourn was adopted.

MONDAY, MARCH 21, 1994

FIFTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Ackerson.

Senate Message

Announcing passage of **SB 361**. Message received on **HB 256** and **HB 558**: The Senate has passed **HB 256** by way of Senate Committee Substitute and Senate Floor Amendment and **HB 558** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body. (Time: 4:05 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 47, HB 337, HB 339, HB 341, HB 534, HB 660, HB 661, HJR 50, HJR 52, HCR 53** and **SB 67** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:04 p.m.)

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 18, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute to **SB 153**, by Representative Nunn:

On page 2, line 14, after "***fees***" by inserting the following: "***held by the county attorney on June 30 of each year***";

And page 2, line 14, after "***treasurer***" by inserting the following: "***before the end of the next fiscal year***".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HCR 108**

Labor and Industry: **SB 331**

Natural Resources and Environment: **SB 182**

Transportation: **SB 351**

Report of Committees

The Committee on Rules reported that **SB 141, SB 193, HB 682, HB 898, HCR 33, HCR 42, HCR 95, HCR 96, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103** and **HCR 104** have been posted for passage in the Orders of the Day for March 22, 1994.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 324**

Banking and Insurance: **HB 755, HB 856**

State Government: **HB 764, HCR 67**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **SB 337**

Economic Development: **SB 195, HR 97**

Elections and Constitutional Amendments: **SB 245, SB 256, SB 272, SB 348**

Report of Committees (Continued)

The Committee on Health and Welfare reported **HR 85** and **SB 311** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 85, A RESOLUTION encouraging the development of psychiatric residential treatment facilities for children with severe emotional disabilities.

WHEREAS, a small but significant number of children who have severe emotional disabilities need long-term residential treatment under the supervision of a psychiatrist and related mental health professionals; and

WHEREAS, in the past, Kentucky children who have severe emotional disabilities could not access long-term residential treatment without entering the custody of the Department for Social Services or leaving Kentucky; and

WHEREAS, funds for "Residential Care for Psychiatric Needs" were appropriated by the 1990 Kentucky General Assembly as part of a plan for community-based services for children with severe emotional disabilities; and

WHEREAS, the State Interagency Council for Services to Children with an Emotional Disability was created by the 1990 Kentucky General Assembly to oversee the development of services to meet the needs of children with a severe emotional disability; and

WHEREAS, regulations for Psychiatric Residential Treatment Facilities were promulgated in 1991 by the Division of Licensing and Regulation, Cabinet for Human Resources; and

WHEREAS, legislation was passed by the 1992 Kentucky General Assembly to limit the size of Psychiatric Residential Treatment Facilities to eight beds and to require that they be homelike and located in existing residential neighborhoods or communities; and

WHEREAS, state and federal law and regulation prohibit discrimination in housing on the basis of disability, and prohibit zoning restrictions that single out residences for people with disabilities; and

WHEREAS, scientific studies of the location of mental health group homes in residential communities do not document an adverse economic or quality of life impact on those communities; and

WHEREAS, the representatives who participate in the State Interagency Council believe that children who have severe emotional disabilities benefit from community-based services regardless of their custodial or placement status; and

WHEREAS, the State Interagency Council for Services to Children with an Emotional Disability has been informed of concerns by neighbors about the location of psychiatric residential treatment facilities in their communities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body declares that:

(1) Children with emotional disabilities who need long-term residential treatment should receive it close to home. Ideally, at least one psychiatric residential treatment facility will be available in each area development district;

(2) Psychiatric residential treatment facilities should be located where people live. Urban, suburban, rural, or agricultural neighborhoods or communities are appropriate for their location. They should not be located in industrial or commercial zones, on the campus of a large licensed facility, or in remote unpopulated areas;

(3) Daily life in psychiatric residential treatment facilities should resemble, as much as possible, the patterns of family life in their communities. Shared meals and chores are typical of Kentucky families and should be typical in psychiatric residential treatment facilities. Facilities should respect neighborhood expectations for the public behavior of residents and staff and for the care of property;

(4) Children in psychiatric residential treatment facilities should have opportunities to participate with supervision in community activities, including recreation. Communities are encouraged to find ways to provide positive community experiences to children in psychiatric residential treatment facilities; and

(5) Communities should become aware of the licensure, accreditation, and funding mechanisms that require quality programming in psychiatric residential treatment facilities. Members of communities where psychiatric residential treatment facilities are located should bring concerns about the quality of services to the attention of the service provider, the Division for Licensing and Regulation, the Joint Commission on Accreditation of Healthcare Organizations, or the Department for Medicaid Services as appropriate.

Section 2. That a copy of this resolution be delivered to the Governor, the Secretary of the Cabinet for Human Resources, the Executive Director of the Interim Office for Health Planning and Certification, and each member of the State Interagency Council for Children with Severe Emotional Disabilities.

SB 311, AN ACT relating to health care decisions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act:

(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.

(2) "Advance directive" means a living will directive made in accordance with Sections 1 to 12 of this Act, a living will or designation of health care surrogate executed prior to the effective date of Sections 1 to 12 of this Act, and any other document that provides directions relative to health care to be provided to the person executing the document.

(3) "Artificially provided nutrition and hydration" means sustenance or fluids that are artificially or technologically administered.

(4) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(5) "Decisional capacity" means the ability to make and communicate a health care decision.

(6) "Directive" means a living will directive in writing voluntarily made by an adult in accordance with the provisions of Sections 1 to 12 of this Act.

(7) "Grantor" means an adult who has executed an advance directive in accordance with Sections 1 to 12 of this Act.

(8) "Health care decision" means consenting to, or withdrawing consent for any medical procedure, treatment or intervention.

(9) "Health care facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care, and licensed pursuant to KRS Chapter 216B.

(10) "Health care provider" means any health care facility or provider of health services, including but not limited to, those licensed, certified, or regulated under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314.

(11) "Life-prolonging treatment" means any medical procedure, treatment, or intervention which:

(a) Utilizes mechanical or other artificial means to sustain, prolong, restore, or supplant a spontaneous vital function; and

(b) When administered to a patient would serve only to prolong the dying process. "Life-prolonging treatment" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain.

(12) "Permanently unconscious" means a condition which, to a reasonable degree of medical probability, as determined solely by the patient's attending physician and one (1) other physician on clinical examination, is characterized by an absence of cerebral cortical functions indicative of consciousness or behavioral interaction with the environment.

(13) "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.

(14) "Responsible party" means an adult who has authority under Section 6 of this Act to make a health care decision for a patient who has not executed a living will directive.

(15) "Surrogate" means an adult who has been designated to make health care decisions in accordance with Sections 1 to 12 of this Act.

(16) "Terminal condition" means a condition caused by injury, disease, or illness which, to a reasonable degree of medical probability, as determined solely by the patient's attending physician and one (1) other physician, is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An adult with decisional capacity may make a written living will directive that does any or all of the following:

(a) Directs the withholding or withdrawal of life-prolonging treatment; or

(b) Directs the withholding or withdrawal of artificially provided nutrition or hydration; or

(c) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise.

(2) Except as provided in Section 7 of this Act, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

(3) For purposes of Sections 1 to 12 of this Act, notification to any emergency medical responder as defined by KRS Chapter 211 or any paramedic as defined by KRS Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized only if on a standard form or identification approved by the Kentucky Board of Medical Licensure, in consultation with the Cabinet for Human Resources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A living will directive made pursuant to Section 2 of this Act shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

.... Designate .... as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If .... refuses or is not able to act for me, I designate .... as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this .... day of ...., 19...

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.

Signature and address of witness.

OR

STATE OF KENTUCKY)
.... County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this .... day of ...., 19...

Signature of Notary Public or other officer.

Date commission expires:............

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney."

(2) An advanced directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to any advance directive made under this section:

(a) A blood relative of the grantor;

(b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;

(c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;

(d) An attending physician of the grantor; or

(e) Any person directly financially responsible for the grantor's health care.

(3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.

(4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious order.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An advance directive made pursuant to Section 2 of this Act may be revoked by:

(a) A writing declaring an intention to revoke, which writing shall be signed and dated by the grantor;

(b) An oral statement of intent to revoke made by a grantor with decisional capacity in the presence of two (2) adults, one (1) of whom shall be a health care provider; or

(c) Destruction of the document by the grantor or by some person in the grantor's presence and at the grantor's direction.

(2) An oral statement by a grantor with decisional capacity to revoke an advance directive shall override any previous written advance directive made.

(3) Any revocation made pursuant to this section shall become effective immediately. An attending physician or health care facility shall not be required to administer treatment in accordance with the revocation until the time notice of the revocation is received. Upon receiving notice of the revocation, the attending physician or health care facility shall record, in the grantor's medical record, the time, date, and place of the notice receipt. No physician or health care facility shall be subject to any liability for acting in good faith upon the knowledge, or lack thereof, of the existence or revocation of an advance directive.

(4) The designation of a health care surrogate made pursuant to Section 2 of this Act may be revoked in whole or in part or the surrogate's powers reduced or limited at any time by the grantor, if the grantor has decisional capacity. A new designation shall revoke any prior designation unless the revocation, in whole or in part, is specifically negated.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A surrogate designated pursuant to an advance directive may make health care decisions for the grantor which the grantor could make individually if he or she had decisional capacity; provided all the decisions shall be made in accordance with the desires of the grantor as indicated in the advance directive. When making any health care decision for the grantor, the surrogate shall consider the recommendation of the attending physician, and honor the decision made by the grantor as expressed in the advance directive.

(2) The surrogate may not make a health care decision in any situation in which the grantor's attending physician has determined in good faith that the grantor has decisional capacity. The attending physician shall proceed as if there were no designation if the surrogate is unavailable or refuses to make a health care decision.

(3) A health care surrogate may authorize the withdrawal or withholding of artificially provided nutrition and hydration in the following circumstances:

(a) When inevitable death is imminent, which for the purposes of this provision shall mean when death is expected, by reasonable medical judgment, within a few days; or

(b) When a patient is in a permanently unconscious state if the grantor has executed an advance directive authorizing the withholding or withdrawal of artificially provided nutrition and hydration; or

(c) When the provision of artificial nutrition cannot be physically assimilated by the person; or

(d) When the burden of the provision of artificial nutrition and hydration itself shall outweigh its benefit. Even in the exceptions listed in paragraphs (a), (b), and (c) of this subsection, artificially provided nutrition and hydration shall not be withheld or withdrawn if it is needed for comfort or the relief of pain.

(4) Notwithstanding the execution of an advance directive, life sustaining treatment and artificially provided nutrition and hydration shall be provided to a pregnant woman unless, to a reasonable degree of medical certainty, as certified on the woman's medical chart by the attending physician and one (1) other physician who has examined the woman, the procedures will not maintain the woman in a way to permit the continuing development and live birth of the unborn child, will be physically harmful to the woman, or prolong severe pain which cannot be alleviated by medication.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) If an adult patient, who does not have decisional capacity, has not executed an advance directive or to the extent the advance directive does not address a decision that must be made, any one (1) of the following responsible parties, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act, shall be authorized to make health care decisions on behalf of the patient:

(a) The judicially appointed guardian of the patient, if the guardian has been appointed and if medical decisions are within the scope of the guardianship;

(b) The spouse of the patient;

(c) An adult child of the patient, or if the patient has more than one (1) child, the majority of the adult children who are reasonably available for consultation;

(d) The parents of the patient;

(e) The nearest living relative of the patient, or if more than one (1) relative of the same relation is reasonably available for consultation, a majority of the nearest living relatives.

(2) In any case in which a health care decision is made under this section, the decision shall be noted in writing in the patient's medical records.

(3) An individual authorized to consent for another under this section shall act in good faith, in accordance with any advance directive executed by the individual who lacks decisional capacity, and in the best interest of the individual who does not have decisional capacity.

(4) An individual authorized to make a health care decision under this section may authorize the withdrawal or withholding of artificially-provided nutrition and hydration only in the circumstances as set forth in subsection (3) of Section 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the responsibility of the grantor or the responsible party of the grantor to provide for notification to the grantor's attending physician and health care facility where the grantor is a patient that an advance directive has been made. If the grantor is comatose, incompetent, or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of an advance directive. An attending physician who is notified shall promptly make the living will directive or a copy of the advance directive a part of the grantor's medical records.

(2) An attending physician or health care facility which refuses to comply with the advance directive of a patient or decision made by a surrogate or responsible party shall immediately inform the patient or the patient's responsible party and the family or guardian of the patient of the refusal. No physician or health care facility which refuses to comply with the advance directive of a qualified patient or decision made by a responsible party shall impede the transfer of the patient to another physician or health care facility which will comply with the advance directive. If the patient, the family, or the guardian of the patient has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance medically necessary for the continued care of the patient, to the receiving physician and health care facility.

(3) No physician, nurse, staff member, or employee of a public or private hospital, or employee of a public or private health care facility, who shall state in writing to the hospital or health care facility his objection to complying with the advance directive of a patient or a health care decision of a responsible party under Sections 1 to 12 of this Act, on moral, religious, or professional grounds, shall be required to, or held liable for refusal to, comply with the advance directive or health care decision as long as the physician, nurse, staff member, or employee complies with the requirements of subsection (2) of this section regarding patient notification and patient transfer.

(4) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member, or employee who refuses to comply with the advance directive of a patient or a health care

decision by a responsible party under Sections 1 to 12 of this Act, as long as the physician, nurse staff member, or employee complies with the provisions of subsection (2) of this section regarding notification and transfer.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A health care facility, physician, or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-prolonging treatment or artificially provided nutrition and hydration from a patient in a terminal condition in accordance with an advance directive executed pursuant to Sections 1 to 12 of this Act. A person who authorizes the withholding or withdrawal of life-prolonging treatment or artificially provided nutrition and hydration from a patient in a terminal condition in accordance with an advance directive shall not be subject to criminal prosecution or civil liability for the action.

(2) An independent investigation of a surrogate's authority shall not be necessary unless a person is in possession of information as to the surrogate's disqualification. No surrogate, responsible party, physician, or health care facility acting in good faith, shall be subject to criminal or civil liability for giving instructions as a surrogate, making a health care decision as a responsible party under Sections 1 to 12 of this Act, or carrying out, or refusing to carry out pursuant to Section 7 of this Act, the surrogate's or responsible party's instructions or acting in reliance on the grantor's designation of a surrogate or a health care decision by a responsible party under Sections 1 to 12 of this Act.

(3) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person:

- *(a) Authorizing or effectuating the withholding or withdrawal of life-prolonging treatment;*
- *(b) Giving instructions as a surrogate;*
- *(c) Making a health care decision as a responsible party under Sections 1 to 12 of this Act;*
- *(d) Carrying out, or refusing to carry out, the surrogate's or responsible party's instructions; or*
- *(e) Acting in reliance on the grantor's designation of a surrogate or a health care decision by a responsible party under Sections 1 to 12 of this Act,*

did not, in good faith, comply with the provisions of Sections 1 to 12 of this Act.

(4) An advance directive made in accordance with Sections 1 to 5 of this Act shall be presumed to have been made voluntarily and validly executed unless the attending physician or health care facility has actual knowledge to the contrary.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The withholding or withdrawal of life-prolonging treatment or artificially provided nutrition and hydration from a grantor in accordance with the provisions of Sections 1 to 12 of this Act shall not, for any purpose, constitute a suicide. The making of an advance directive under Sections 1 to 5 of this Act or a health care decision by a responsible party under Sections 1 to 12 of this Act shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be considered to modify the terms of an existing policy of life insurance. Notwithstanding any term of the policy to the contrary, no policy of life insurance shall be legally impaired or invalidated in any manner by a health care decision made by a surrogate or responsible party or by the withholding or withdrawal from an insured patient any medical procedure or intervention which would serve only to prolong artificially the dying process.

(2) No person, corporation, or governmental agency shall require or induce any person to execute a living will directive or to make a health care decision as a responsible party under Sections 1 to 12 of this Act as a condition for a contract or for the provision of any service, medical treatment, or benefit.

(3) Nothing in Sections 1 to 12 of this Act shall be construed to impose any liability on a surrogate or responsible party for any expenses of the grantor for which the surrogate or responsible party would not otherwise have been liable.

(4) Sections 1 to 12 of this Act shall not create a presumption concerning the intention of an adult who has revoked or has not executed an advance directive with respect to the use, withholding, or withdrawal of life-prolonging treatment if a terminal condition exists.

(5) Sections 1 to 12 of this Act shall not affect the common law or statutory right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any common law or statutory right that an adult has to effect the withholding or withdrawing of medical care.

(6) Sections 1 to 12 of this Act shall not preclude or restrict the right of persons to make advance directives outside the provisions of Sections 1 to 12 of this Act; and Sections 1 to 12 of this Act shall not restrict or preclude medical personnel, physicians, nurses, or health care facilities from following other written advance directives consistent with accepted medical practice.

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 12 of this Act shall not be construed to condone, authorize, or approve mercy killing or euthanasia, or to *permit any affirmative or deliberate act to end life other than to permit the natural process of dying.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person who willfully conceals, cancels, defaces, obliterates, or damages the advance directive of another without the grantor's consent or who falsifies or forges a revocation of the advance directive of another, thereby causing life-prolonging treatment to be utilized in contravention of the previously expressed intent of the patient shall be civilly liable.

(2) Any person who falsifies or forges the advance directive of another, or willfully conceals or withholds personal knowledge of the revocation of an advance directive, with the intent to cause a withholding or withdrawal of life-prolonging treatment, contrary to the wishes of the grantor, and thereby causes life-prolonging treatment to be withheld or withdrawn and death to be hastened, shall be guilty of a Class B felony.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 12 of this Act may by cited as the "Kentucky Living Will Directive Act."

Section 13. The following KRS sections are repealed:

311.622 Legislative finding.

311.624 Definitions for KRS 311.622 to 311.644.

311.626 Declaration -- Witness.

311.628 Notification of declarant's attending physician of existence of declaration.

311.630 Revocation procedures.

311.632 Exemption of health care facility or physician from criminal prosecution or civil liability for actions.

311.634 Notification of patient when attending physician or health care facility refuses to comply -- Transfer of patient.

311.636 Construction of KRS 311.622 to 311.644.

311.638 Withholding or withdrawal of life-prolonging treatment not to constitute suicide -- Effect of declaration on life insurance.

311.640 Effect of KRS 311.622 to 311.644 on intention or right of adult.

311.642 Civil liability -- Penalty.

311.644 Short title.

311.970 Definitions for KRS 311.970 to 311.986.

311.972 Designation of surrogate -- Resignation -- Persons prohibited from serving.

311.974 Execution of designation.

311.976 Revocation of designation.

311.978 Powers of surrogate -- Limitations.

311.980 Form of designation.

311.982 Refusal of health care provider to comply with designation -- Effect of refusal.

311.984 Liabilities of surrogate -- Effect of designation on life insurance -- Right to make decision as to use of life-prolonging treatment.

311.986 Short title.

The Committee on Tourism Development and Energy reported **SB 168** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 168, AN ACT relating to telephone solicitations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A telephone call to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a *consumer loan to the person called;*

    3. *Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or*

    4. *Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or*

  (b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant represents or implies to the recipient of the notification that any of the following applies:

    1. *That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;*

    2. *That the recipient will receive a prize or gift if the recipient calls the merchant; or*

    3. *That if the recipient buys one or more items from the merchant, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;*

(2) "Telephone solicitation" does not mean:

  (a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

  (b) A telephone call made primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

  (c) A telephone call made by any of the following:

    1. *A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;*

    2. *A broker-dealer, agent or investment adviser properly registered under the provisions of KRS Chapter 292;*

    3. *An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;*

    4. *An employment agency that has obtained a current permit from the Cabinet for Human Resources under the provisions of KRS Chapter 340;*

    5. *A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;*

    6. *A merchant or his affiliate whose business is regulated by the Public Service Commission;*

    7. *A merchant soliciting the sale of food costing less than one hundred dollars ($100) to each address;*

    8. *A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;*

    9. *The solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;*

    10. *Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;*

    11. *A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;*

    12. *A merchant subject to the control or licensure regulations of the Federal Communications Commission;*

    13. *A book, video, or record club or contractual plan or arrangement in which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of the later plan include continuity plans, subscription arrangements, standing order arrangement, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic*

basis;

14. A merchant who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation; or

15. Any telephone marketing service company which provides telemarketing sales services under contract to merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under Sections 1 to 14 of this Act, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of Sections 1 to 14 of this Act, if applicable;

(d) A telephone call made by a merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or

(e) A telephone call made by a merchant that is a publicly traded corporation;

Except for subparagraph (2)(c)15. of this section, the exemptions provided under subsection (2) of this section shall apply only, to a merchant engaging in a telephone solicitation on his own behalf;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator; and

(11) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A caller making a telephone solicitation shall:

(1) Immediately upon making contact by telephone with the consumer, state his actual name, the merchant's legal name, a telephone number or address at which the merchant may be contacted, and the town or city and state where the caller is physically located;

(2) Within the first thirty (30) seconds of the call, identify the goods, services, interest in real estate, investment or business opportunity, or type of credit being offered and inquire whether the consumer is interested in listening to a sales presentation; and

(3) Immediately discontinue the solicitation if the consumer responds in the negative.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A contract or agreement made as a result of a telephone solicitation violating Sections 1 to 14 of this Act is voidable by the consumer for any reason at any time and shall not be enforced against the consumer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Unless the contract is reduced to writing in compliance with subsection (4) of this section, a consumer may cancel a contract made as a result of a telephone solicitation and obtain a full refund of all money paid, by returning the goods, if any, undamaged and unused, or cancel services within the later of:

(a) Fourteen (14) calendar days following receipt of the goods; or

(b) Fourteen (14) calendar days following receipt of two (2) copies of a written notice of cancellation rights containing the following language in no less than ten (10) point, bold-faced type:

NOTICE OF CANCELLATION RIGHTS

BECAUSE YOU AGREED TO BUY THESE GOODS (or services or other appropriate description) AS A RESULT OF AN UNSOLICITED TELEPHONE CALL, KENTUCKY LAW GIVES YOU FOURTEEN (14) DAYS TO CANCEL YOUR AGREEMENT WITH US. IF YOU WANT TO CANCEL, YOU MUST SIGN YOUR NAME BELOW AND RETURN A COPY OF THIS NOTICE, TOGETHER WITH ANY GOODS YOU HAVE RECEIVED, SO THEY ARE POSTMARKED NO LATER THAN MIDNIGHT OF THE FOURTEENTH DAY FOLLOWING THE DATE YOU RECEIVED THE GOODS OR AGREED TO THE SERVICES, OR THE FOURTEENTH DAY FOLLOWING THE DATE YOU RECEIVED THIS NOTICE, WHICHEVER IS LATER. THE NOTICE AND GOODS MUST BE ADDRESSED AS FOLLOWS:

(Name and address of Merchant)

I want to cancel my agreement to purchase.

____

(Signature)

____

(Name of Consumer - Printed)

____

(Address of Consumer - Printed)

____

(Address - City, State, Zip)

____

(Date)

(2) The consumer shall be deemed to have complied with subsection (1) of this section if the cancellation notice and goods, if any, are returned to the merchant and are postmarked by midnight of the fourteenth day.

(3) The merchant shall process the refund due any consumer within thirty (30) days of receiving the merchandise returned by the consumer or the written cancellation provided in subsection (1) of this section.

(4) The cancellation period provided in subsection (1) of this section shall not apply to a written contract signed by the consumer that:

(a) Complies with all applicable federal and state laws and regulations;

(b) Contains a description of the goods, services, investment or business opportunity, extension of credit, or interest in realty matching the description used in the telephone solicitation;

(c) Contains the name, address, and telephone number of the merchant, the total price of the contract, including any finance or interest charges, and a detailed description of the goods, services, credit, or interest in realty being offered;

(d) Contains all oral or written representations made to the consumer in connection with the transaction; and

(e) Sets out in at least ten (10) point, bold-face type, immediately preceding the signature, the following statement:

YOU ARE NOT OBLIGATED TO PAY ANY
MONEY UNLESS YOU SIGN THIS CONTRACT
AND RETURN IT TO THE MERCHANT.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

No caller or merchant making or causing to be made a telephone solicitation shall request or accept payment from a consumer or make or submit any charge to the consumer's credit or bank account until either:

(1) The merchant receives from the consumer a signed copy of a written contract complying with subsection (4) of Section 4 of this Act; or

(2) The cancellation period provided in subsection (1) of Section 4 of this Act has expired, and the consumer has not exercised his right to cancel.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation by a caller or merchant of Sections 1 to 14 of this Act shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990, relating to acts and practices violating KRS 367.170 shall apply with equal force and effect to acts and practices declared unlawful by Sections 1 to 14 of this Act.

(3) Nothing in Sections 1 to 14 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) At least ten (10) days prior to doing business in this state, a merchant shall file with the division the information described below and pay a filing fee of three hundred dollars ($300). A merchant shall be deemed to do business in this state if the merchant solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state. The information required by this section shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the merchant, under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to Sections 1 to 14 of this Act shall be clearly identified and appended to the filing.

(2) Registration of a merchant shall be valid for one (1) year from the effective date thereof and may be renewed annually by making the filing required by this section and paying a filing fee of fifty dollars ($50).

(3) If, prior to expiration of a merchant's annual registration, there is a material change in the information required by Sections 1 to 14 of this Act, the merchant shall, within ten (10) days, file an addendum updating the information with the division. However, changes in salespersons soliciting on behalf of a merchant shall be updated by filing addenda, if necessary, in quarterly intervals computed from the effective date of registration. The addendum shall include the required information for all salespersons currently soliciting or having solicited on behalf of the merchant at any time during the period between the filing of the registration, or the last addendum, and the current addendum, and shall include information on salespersons no longer soliciting for the merchant as of the date of the filing of the current addendum.

(4) Upon receiving the filing and the filing fee pursuant to this section, the division shall send the merchant a written confirmation of receipt of the filing. If the merchant has more than one (1) business location, the written confirmation shall be sent to the merchant's principal business location as identified in the merchant's filing in sufficient numbers so that the merchant can meet the requirements of this subsection. Within ten (10) days of receipt of the confirmation the merchant shall post in a conspicuous place at each of the merchant's business locations within this state a copy of the entire registration statement which has been filed with the division. Until confirmation of receipt of filing is received and posted, the merchant shall post in a conspicuous place at each of the merchant's business locations within this state a copy of the first page of the registration form sent to the department. The merchant shall also post in close proximity to either the confirmation of receipt of filing or the first page of the submitted registration form the name of the individual in charge of each location from which the merchant does business in this state.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Each filing pursuant to Section 7 of this Act shall contain the following information:

(1) The name or names of the merchant, including the name under which the merchant is doing or intends to do business, if different from the name of the merchant, and the name of any parent or affiliated organization that will engage in business transactions with purchasers relating to sales solicited by the merchant, or that accepts responsibility for statements made by, or acts of, the merchant relating to sales solicited by the merchant;

(2) The merchant's business form and place of organization and, if the merchant is a corporation, a copy of its articles of incorporation and bylaws and amendments to those, or, if a partnership, a copy of the partnership agreement, or if operating under a fictitious business name, the location where the fictitious name has been registered, along with a copy of the registration documents. The same information shall be included for any parent or affiliated organization disclosed pursuant to subsection (1) of this section;

(3) The complete street address of all locations designating the principal location from which the merchant will be

conducting business. If the principal business location of the merchant is not in this state, then the merchant shall also designate which of its locations within this state is its main location;

(4) A listing of all telephone numbers to be used by the merchant and the address where each telephone using each of these telephone numbers is located;

(5) The name of and the office held by the merchant's officers, directors, trustees, general and limited partners, sole proprietor, and owners and the names of persons having management responsibilities in the merchant's business activities;

(6) The principal residence, the date of birth, and the driver's license number and state of issuance of each person named pursuant to subsection (5) of this section;

(7) The name and principal residence of each person the merchant leaves in charge at each location in which the merchant does business in this state, and the business location at which each of these persons is in charge;

(8) A statement, meeting the requirements of this subsection, as to both the merchant, whether a corporation, partnership, firm, association, joint venture, or any other type of business entity and as to any person identified pursuant to subsection (5) or (7) of this section who:

(a) Has been convicted of a felony or a misdemeanor involving a violation of this article, or fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. For purposes of this paragraph, a plea of nolo contendere shall be considered a conviction;

(b) Has had entered against him a final judgment or order in a civil or administrative action, including a stipulated judgment or order, if the complaint or petition in the civil or administrative action alleged acts constituting a violation of Sections 1 to 14 of this Act, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property, or the use of unfair, unlawful, or deceptive business practices;

(c) Is subject to an injunction or restrictive court order relating to business activity as the result of an action brought by a federal, state, or local public agency or unit of that agency, including, but not limited to, an action affecting any vocational license; or

(d) Has during the previous seven (7) tax years filed in bankruptcy, been adjudged a bankrupt, been reorganized due to insolvency, or been a principal, director, officer, trustee, general or limited partner, or had management responsibilities of any other corporation, partnership, joint venture, or business entity that has so filed or was so adjudicated or reorganized, during or within one (1) year after the period that the person held that position.

The statement required by paragraphs (a), (b), and (c) of this subsection shall identify the merchant or person, the court or administrative agency rendering the conviction, judgment, or order, the docket number of the matter, the date of the conviction, judgment, or order, and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, or order. For purposes of paragraph (d) of this section, the statement required shall include the name and location of the merchant or person filing in bankruptcy, adjudged a bankrupt, or reorganized due to insolvency, and shall include the date thereof, the court which exercised jurisdiction, and the docket number of the matter;

(9) A list of the names, driver's license numbers and states of issuance, principal residence addresses, and telephone numbers of salespersons who solicit on behalf of the merchant, and any names the salesperson uses while soliciting;

(10) A description of the items the merchant is offering for sale and a copy of all sales scripts the merchant requires salespersons to use when soliciting prospective purchasers. If no sales script is required to be used, a statement to that effect shall be included;

(11) A copy of all sales information and literature including, but not limited to, scripts, outlines, instructions, and information regarding how to conduct telephonic sales, sample introductions, sample closings, product information, and contest or premium-award information provided by the merchant to salespersons or of which the merchant informs salespersons, and a copy of all written materials the merchant sends to any prospective or actual purchaser;

(12) (a) If the merchant represents or implies, or directs salespersons to represent or imply, to purchasers that the purchaser will receive certain specific items, including a certificate of any type which the purchaser must redeem to obtain the item described in the certificate, or one (1) or more items among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or otherwise, the filing shall include the following:

1. A list of the items offered;

2. The actual value or worth of each item described to prospective purchasers and the basis for the valuation; and

3. The price paid by the merchant to its supplier for each of these items and the name, address, and telephone number of each item's supplier;

(b) If the purchaser is to receive fewer than all of the items described by the merchant, the filing shall include the following:

1. The manner in which the merchant decides which item each prospective purchaser is to receive;

2. The odds a single prospective purchaser has of receiving each described item;

3. The name and address of each recipient who has, during the preceding twelve (12) months, or if the merchant has not been in business that long, during the period the merchant has been in business, received the item having the greatest value and the item with the smallest odds of being received; and

4. All rules, regulations, terms, and conditions a prospective purchaser must meet in order to receive the item; and

(13) If the merchant is offering an investment, business, or employment opportunity, the filing shall include the following:

(a) The number of consumers or investors who have participated to date;

(b) The actual experience of the consumers or investors as measured by standards used in the sales presentations; and

(c) If the opportunity is so recent that no actual performance experience exists, that fact shall be disclosed in all sales presentations, and no other representation of performance shall be made in sales presentations.

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) If the merchant represents or implies that the consumer will receive a prize, award, or similar item of value from a number of such prizes or awards, all sales presentations shall include the actual number of individuals who have received the item having the greatest value, and the actual number of individuals who have received the item with the least value within the preceding twelve (12) months or since the merchant has been in business if less than twelve (12) months.

(2) If the merchant is offering an investment, business, or employment opportunity, the sales presentation shall include the following:

(a) The number of consumers or investors who have participated to date;

(b) The actual experience of the consumers or investors as measured by the standards used in the sales presentations; and

(c) If the opportunity is so recent that no actual performance experience exists, that fact shall be disclosed in all sales presentations, and no other representation of performance shall be made in sales presentations.

(3) If the sales presentation includes representations of prices below those usually charged for items, the sales presentation shall include the name of the manufacturer, importer, or supplier of such items and the locations within the merchant's calling state or this state at which the items are offered at usual prices. If the item has never been sold in the merchant's calling state or this state no representation of usual selling price shall be made.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Every merchant shall maintain a bond issued by a surety company admitted to do business in this state. The bond shall be in the amount of fifty thousand dollars ($50,000) in favor of the Attorney General for the benefit of any person suffering injury or loss by reason of any violation of Sections 1 to 14 of this Act to be paid under the terms of any order of a court of competent jurisdiction obtained by the Attorney General, as a result of any violation of Sections 1 to 14 of this Act. A copy of the bond shall be filed with the division.

(2) At least ten (10) days prior to the inception of any promotion offering a premium with an actual market value or advertised value of five hundred dollars ($500) or more, the merchant shall notify the Attorney General in writing of the details of the promotion, describing the premium and its current market value, the value at which it is advertised or held out to the customer, the date the premium shall be awarded, and the conditions under which the award shall be made. The merchant shall maintain an additional bond for the greater of the current total market value or the advertised value of the premiums held out or advertised to be available to a purchaser or recipient. A copy of the bond shall be filed with the division. The bond, or a portion of it necessary to cover the cost of the award, shall be forfeited if the premium is not awarded to a bona fide customer within thirty (30) days of the date disclosed as the time of award or the time otherwise required by law. The proceeds of the bond shall be paid to any person suffering injury or loss by reason of any violation of Sections 1 to 14 of this Act or shall be paid pursuant to the terms of any order of a court of competent jurisdiction obtained by the Attorney General, Commonwealth's attorney, or county attorney as a result of any violation of Sections 1 to 14 of this Act. The bond shall be maintained until the merchant files with the Attorney General proof that the premium was awarded.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The Attorney General may promulgate administrative regulations necessary for the proper administration and enforcement of Sections 1 to 14 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any merchant, caller, or other person who uses electronic equipment within this Commonwealth for purposes of telephone solicitation shall, as a condition of that use, be deemed to have accepted the provisions of Sections 1 to 14 of this Act and of KRS Chapter 526.

SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

In a civil proceeding alleging a violation of Sections 1 to 14 of this Act, the burden of proving an exemption shall be on the person claiming the exemption, and in a criminal proceeding alleging a violation of Sections 1 to 14 of this Act, the burden of producing evidence to support a defense based on an exemption shall be on the person claiming the exemption.

SECTION 14. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any person, including, but not limited to, a merchant, a salesperson, agent or representative of the merchant, or an independent contractor, who knowingly violates any provision of Sections 1 to 14 of this Act or engages in any act, practice, or course of business which operates or would operate as fraud or deceit upon any person in connection with a sale shall be guilty of a Class D felony. The Office of the Attorney General shall have concurrent enforcement powers as to such felonies.

The Committee on Natural Resources and Environment reported **SB 266** and **SB 268** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 266, AN ACT relating to the disposal of coal combustion by-products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.50-760 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet***. For purposes of this section, "coal combustion by-products" means fly ash, bottom ash, and scrubber sludge residues produced by coal fired electric generating units. Coal combustion by-products do not include residues of refuse derived fuels, such as municipal solid waste, tires, and solvents***;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in ***administrative*** regulations pursuant to KRS 224.864(3). If the special waste is a hazardous waste as specified in ***administrative*** regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.46-510(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350***. Coal combustion by-products, when disposed of at surface coal mining operations, shall be exempt from the requirements of this chapter and shall be exclusively regulated under KRS Chapter 350 when the disposal does not exceed two (2) times the in-place volume of the marketable coal seams removed from the mine site or when the disposal does not exceed a maximum thickness of ten (10) feet over the area of distribution where coal has not been extracted***; and

(d) The cabinet shall, when promulgating ***administrative*** regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and KRS 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's ***administrative*** regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's ***administrative*** regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in ***administrative*** regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto.

Section 2. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under ***administrative*** regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under ***administrative*** regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and ***administrative*** regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and ***administrative*** regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(14).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Coal combustion by-products" means fly ash, bottom ash, or scrubber sludge produced by coal fired electric generating units.

SECTION 3. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may approve the disposal of coal combustion by-products at surface coal mining operations for which a permit is obtained from the cabinet.

(2) The coal combustion by-products to be disposed of shall not be listed or meet the characteristics of a hazardous waste in regulations pursuant to the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended, using analytical testing methods performed in accordance with regulations promulgated pursuant to the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended.

(3) An application to modify an existing permit to initially include the disposal of coal combustion by-products, an application to increase the amount of coal combustion by-products to be received, an application to change the components of the coal combustion by-products, or an application to change or add a generating facility shall be an application for a minor revision. However, for the purpose of public notification only, the applicant shall provide two (2) consecutive weekly newspaper advertisements covering the applicant's intention to dispose of coal combustion by-products within the permitted area.

(4) The permittee shall keep accurate records, which shall be made available to the cabinet upon request, showing the source and amount of each shipment of coal combustion by-products that is received.

(5) Prior to disposal of the coal combustion by-products, any material that is not the coal combustion by-product approved for disposal shall be removed from the coal combustion by-product. A record shall be kept of the removed material and its disposition, and this record shall be available at the mine office for examination by the cabinet.

(6) Coal combustion by-products shall be disposed only in those areas where coal has been extracted pursuant to a validly issued surface coal mining permit.

(7) The volume of coal combustion by-products placed at any location in the pit or extraction area from which coal has been removed shall not exceed two (2) times the in-place volume of the marketable coal seams removed from that location. However, disposal of coal combustion by-products in permitted areas where coal has not been extracted shall be limited to a thickness no greater than ten (10) feet over the area of distribution, unless a thickness greater than ten (10) feet is otherwise approved by the cabinet.

(8) If requested by the cabinet, or if required by the issued permit, the applicant or permittee shall provide representative samples of the coal combustion by-products to the cabinet in a manner satisfactory to the cabinet.

(9) If requested by the cabinet, or if required by the issued permit, the permittee shall annually obtain a laboratory analysis to characterize the coal combustion by-products. The analysis shall be performed in the manner specified in subsection (2) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

If the disposal of coal combustion by-products is proposed in a surface mining and reclamation permit, the newspaper advertisement required under KRS 350.055 shall also state that the applicant proposes to dispose of coal combustion by-products in the permit area.

SECTION 5. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) If disposal of coal combustion by-products is proposed, the application for a surface mining and reclamation permit or revision shall state:

  (a) The legal right of the applicant to dispose of coal combustion by-products in the permit area;

  (b) The location, business name, mailing address, and telephone number of the electric generating facility that will generate the coal combustion by-products, and the name and title of the responsible official of the generating facility who may be contacted regarding the coal combustion by-products;

  (c) Each of the component materials, fly ash, bottom ash, or scrubber sludge that the coal combustion by-product will contain; and

  (d) The approximate volume in cubic yards, and the approximate tonnage, of coal combustion by-products that will be received from the generating facility annually and for the term of the permit.

(3) The application shall include the results of representative sampling and laboratory analysis of the individual components of the coal combustion by-product to demonstrate it is not listed or does not meet the characteristics of a hazardous waste in regulations pursuant to the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) as amended. Analytical testing shall be performed in accordance with regulations promulgated pursuant to the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) as amended.

(4) The application shall describe the proposed methods of coal combustion by-product handling and disposal, including methods of record keeping.

(5) The application shall include appropriate maps and drawings of all areas and facilities to be used in the permit area for coal combustion by-product handling and disposal.

SECTION 6. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

Surface and ground water monitoring stations shall be established at appropriate locations to satisfy the requirements of this chapter and the Kentucky Pollutant Discharge Elimination System Program. The analysis of water samples shall be for the chemical parameters required by this chapter. If discharge points are established at different locations than the designated monitoring stations, analysis of water at the discharge point shall include the same chemical parameters as for the monitoring station.

SECTION 7. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) Permitted facilities specifically used for coal combustion by-product disposal activities shall be operated and maintained to minimize coal combustion by-products becoming airborne and to minimize entry of coal combustion by-product contaminants into surface and ground water.

(2) To the extent practicable, areas to receive coal combustion by-products shall be selected to minimize water contact with the coal combustion by-products.

(3) The coal combustion by-products shall be disposed by the method approved in the permit.

(4) The coal combustion by-products shall be covered within time frames specified in the approved permit with at least four (4) feet of non-acid forming spoil material. Where site-specific conditions indicate no adverse environmental impact will occur, coal combustion by-products can be incorporated into the four (4) feet of cover material.

(5) The coal combustion by-products shall not be placed within four (4) feet horizontally of a final highwall, final exposed coal seam, or coal outcrop.

(6) Before the coal combustion by-products are placed at the approved location, the area shall be backfilled with non-acid forming material to at least four (4) feet above the lowest coal seam, unless site-specific conditions indicate no adverse environmental impact will occur.

SECTION 8. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The cabinet shall, upon the effective date of this Act, process applications submitted under the provisions of sections 1 to 7 of this Act in the same manner as other permit applications submitted under the provisions of this chapter.

SB 268, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 46 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In the interest of protecting public health and the environment, the General Assembly of the Commonwealth of Kentucky hereby finds that it is the policy of the Commonwealth to encourage environmental leadership in pollution prevention by source reduction when technically feasible and economically practicable, without shifting risks from one part of a process or environmental medium to another. It shall be the goal of the Commonwealth to reduce the amount by weight of hazardous waste and of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 generated by each Kentucky facility in 1987 by twenty-five percent (25%) by January 1, 1997, and by fifty percent (50%) by January 1, 2002. It shall also be the goal of the Commonwealth to reduce the amount by weight of hazardous waste, and of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 generated by each Kentucky facility which began operating after December 31, 1987, by twenty-five percent (25%) within ten (10) years after beginning the operation, and by fifty percent (50%) within fifteen (15) years after beginning the operation. The General Assembly finds that the best means to achieve environmental leadership through pollution prevention are by:

(1) Providing facilities generating hazardous waste or releasing toxic chemicals with technical assistance to reduce the release of toxic chemicals and the generation of hazardous waste;

(2) Encouraging facilities generating hazardous waste or releasing toxic chemicals to adopt policies to prevent pollution, to prepare comprehensive plans and to develop measurable performance goals;

(3) Providing economic incentives to reduce the amount of hazardous waste generated and toxic chemicals released in the Commonwealth; and

(4) Using cabinet incentives to acknowledge the environmental leadership of facilities meeting the pollution prevention goal.

Section 2. KRS 224.46-310 is amended to read as follows:

As used in KRS 224.46-315 to 224.46-325, "*pollution prevention* [~~hazardous waste reduction~~]," shall mean in-plant practices, including, but not limited to, process modifications, feedstock substitutions, *product reformulation* management practices or housekeeping alterations, recycling within industrial processes, or equipment replacement or modifications, that reduce, avoid, or eliminate the generation of hazardous waste *or the release of toxic chemicals* at *their* [~~its~~] source, rather than controlling, treating, or managing *hazardous* waste *or toxic chemicals* after *their* [~~its~~] generation *or release*, to reduce the risks to employees, public health, and the environment. *Pollution prevention* [~~Hazardous waste reduction~~] shall not include actions taken at locations away from the *pollution-generating* [~~waste generating~~] activity, including [~~waste~~] recycling or treatment, or concentrating the hazardous content of a waste*, or the toxic content of a toxic chemical,* to reduce volume, or diluting [~~hazardous waste~~] to reduce the degree of hazard *or toxicity*.

Section 3. KRS 224.46-315 is amended to read as follows:

(1) There shall be established a center for *pollution prevention* [~~hazardous waste reduction~~], which shall be a technical information and assistance office to be located at a state-owned university, which shall facilitate and promote the commercial implementation of *pollution prevention* [~~hazardous waste reduction~~] technologies and procedures by providing technical and financial assistance, as available, to business and industry. The center shall be governed by a board of directors [~~appointed by the Governor and~~] representing the following organizations:

(a) The secretary of the Natural Resources and Environmental Protection Cabinet or a designee of the secretary;

(b) The secretary of the Economic Development Cabinet or a designee of the secretary;

(c) The dean of the University of Louisville School of Engineering or a designee of the dean;

(d) The dean of the University of Kentucky School of Engineering or a designee of the dean;

(e) A representative of the industrial community appointed by the Governor;

(f) A representative of the environmental protection community appointed by the Governor;

(g) A representative of local government appointed by the Governor;

(h) An environmental engineer appointed by the Governor;

(i) An at-large member appointed by the Governor representing an industrial facility;

(j) An at-large member appointed by the Governor representing an agricultural producer; and

(k) An at-large member appointed by the Governor representing the public [~~the Kentucky General Assembly, the Natural Resources and Environmental Protection Cabinet, the Cabinet for Economic Development, the Labor Cabinet, the Department of Agriculture, the Council on Higher Education, the Kentucky Environmental Education Association, the Kentucky Municipal League, the Kentucky Chamber of Commerce, the Associated~~

~~Industries of Kentucky, the Kentucky Society for Professional Engineers, the Kentucky Resources Council, and Kentuckians for the Commonwealth~~].

(2) Board members may designate proxies who shall have voting privileges at board meetings. The members identified in subsection (1)(a) to (1)(d) of this section shall serve as permanent members of the board. Of the seven (7) members identified in subsections (1)(e) to (k) of this section, two (2) shall continue in office for two (2) years, two (2) shall continue in office for three (3) years, and three (3) shall continue in office for four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for three (3) years. Members may be reappointed. The Governor shall appoint a chairperson for the board.

(3) Meetings of the board shall be held at least quarterly, but may be held more frequently if necessary. The chair or a majority of members may call a special meeting. Six (6) members of the board shall constitute a quorum for doing business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions. No member shall receive a salary, fee, or other remuneration for services as a member of the board, but each member shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The board shall:

(a) Formulate policies and procedures necessary to carry out the purposes stated in Section 1 of this Act;

(b) Promulgate administrative regulations solely to carry out the purposes of Section 4 of this Act to assure the proper distribution of funds available to the center;

(c) Review and authorize pollution prevention projects and programs to be undertaken and financed pursuant to Sections 1, 4, 6, and 8 of this Act;

(d) Review and approve all progress and final research reports on projects authorized by Sections 1 and 4 of this Act;

(e) Assure that funds available to the center are not diverted to any uses inconsistent with Sections 1 to 8 of this Act, and that all authorized projects are directed toward improvement of the environment, specifically toward pollution prevention and toward preserving and strengthening industry in Kentucky;

(f) Provide to the Governor and the General Assembly an annual report showing the status of funds appropriated for the purposes of Sections 1 to 8 of this Act for pollution prevention and progress of the board in terms of its research and pollution prevention technology implementation efforts;

(g) Advise the Governor and the General Assembly each year of the need for continuation of the center and its board through levy of the hazardous waste assessment fund for the purpose of financing pollution prevention programs;

(h) Approve and release public statements relating to the progress and results of pollution prevention programs and research;

(i) Hire a technical advisor if deemed necessary; and

(j) Approve the budget and expenditures of the center.

Section 4. KRS 224.46-320 is amended to read as follows:

The center shall:

(1) Compile, organize, and make available for distribution information on ***pollution prevention*** [~~hazardous waste reduction~~] technologies and procedures;

(2) Compile, and make available for distribution to business and industry, a list of expert private consultants on ***pollution prevention*** [~~hazardous waste reduction~~] technologies and procedures, and a list of researchers at state universities that could provide assistance in waste reduction activities;

(3) Sponsor and conduct conferences and individualized workshops on ***pollution prevention*** [~~hazardous waste reduction~~] for specific classes of business or industry;

(4) Conduct feasibility analyses for innovative ***pollution prevention*** [~~hazardous waste reduction~~] technologies and procedures;

(5) Facilitate and promote the transfer of ***pollution prevention*** [~~hazardous waste reduction~~] technologies and procedures between businesses and industries;

(6) Develop, where appropriate, and distribute for voluntary implementation, ***pollution prevention*** [~~hazardous waste reduction~~] plans for the major classes of business or industry that generate ***hazardous waste or release toxic chemicals*** [~~and subsequently treat, store, or dispose of hazardous waste~~] in the state;

(7) Develop, and make available for distribution, recommended ***environmental*** [~~hazardous waste~~] audit procedures or protocols for utilization by business and industry in conducting internal ***environmental*** [~~hazardous waste~~] audits;

(8) Administer loan, loan guarantee, interest subsidy, or grant programs which may be established pursuant to law for the purpose of providing moneys to a business or industry to subsidize the costs of conducting ***environmental*** [~~hazardous waste~~] audits or ***source*** [~~waste~~] reduction studies, or developing or purchasing, and implementing, ***source*** [~~hazardous waste~~] reduction technologies and procedures, or for other similar purposes;

(9) Provide moneys, from such funds as may be appropriated or otherwise made available, to academic institutions, businesses or industries, government agencies or private organizations located in the state to conduct demonstration or pilot programs utilizing innovative ***pollution prevention*** [~~hazardous waste reduction~~] technologies or procedures for specific categories of industry or business;

(10) Provide moneys, from such funds as may be appropriated or otherwise made available, to academic institutions or private organizations located in the state for basic or applied research on ***pollution prevention*** [~~hazardous waste reduction~~];

(11) Compile, and make available for distribution, information on available tax benefits for the implementation of ***pollution prevention*** [~~hazardous waste reduction~~] technologies and procedures by an industry or business;

(12) [~~Establish goals for voluntary hazardous waste reduction within the state, including the identification of key industries and businesses which should receive priority assistance from the center;~~

~~(13)~~] Identify governmental and nongovernmental impediments to ***pollution prevention*** [~~hazardous waste reduction~~];

(13)[~~(14)~~] Develop the necessary information base and data collection programs to assist in establishing program priorities and evaluating the progress of reducing ***pollution*** [~~hazardous wastes~~];

(14)[~~(15)~~] Develop training programs and materials for state and local regulatory personnel and private industry, designed to inform about ***pollution prevention*** [~~waste reduction~~] practices and their applicability to industry;

[~~(16) Produce a biennial report on the center's activities, achievements, problems identified and future goals, including a biennial work plan; and~~]

(15)[~~(17)~~] Participate in existing state, federal and industrial networks of individuals and groups actively involved in ***pollution prevention*** [~~waste reduction~~] activities***; and***[~~.~~]

(16) Prepare a proposed pollution prevention research and program budget request for each fiscal year, based on revenue projections and providing for the expenses of the board, the board's technical advisor, and recommendations of the university, and present it to the board for review and approval.

Section 5. KRS 224.46-325 is amended to read as follows:

(1) The cabinet shall provide to the center copies of all annual waste reduction reports submitted under the Federal Resource Conservation and Recovery Act, as amended, and state solid and hazardous waste management ***administrative*** regulations.

(2) The Department of Military Affairs shall provide upon request, to the center, ***and to the cabinet,*** the [~~waste stream~~] data submitted to the Kentucky Emergency Planning Commission as required by Section 313 of the Federal Superfund Amendments and Reauthorization Act of 1986.

(3) This section shall not be construed to limit the legal protections of the confidentiality of trade secrets or business information.

[~~(4) The center shall compile a report for the Governor on a biennial basis describing the waste reduction achievements of businesses and industries within the Commonwealth.~~]

SECTION 6. A NEW SECTION OF SUBCHAPTER 46 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is established the pollution prevention fund, to be administered by the center under the direction of the board. The fund shall consist of money received from the hazardous waste assessment fund created by KRS 224.46-580, and any state or federal appropriations, donations, or agency receipts.

(2) The fund shall be used solely to finance the pollution prevention programs authorized and approved by the board.

(3) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium. Those funds shall be included in the budget reviewed and approved by the board.

(4) The university shall execute the budget approved by the board and expend funds accordingly. The Finance and Administration Cabinet shall issue warrants upon request of the university.

SECTION 7. A NEW SECTION OF SUBCHAPTER 46 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish by administrative regulation an environmental leadership program for those facilities meeting the pollution prevention goal established in Section 1 of this Act. The program shall provide incentives to acknowledge the environmental leadership of those facilities. The program may include provisions to address:

(a) Public recognition of a facility for meeting "state of the art" standards for environmental leadership;

(b) Accelerated review of a facility's applications for permits, permit renewals, and permit modifications;

(c) "Green product" labeling for products produced by a facility;

(d) Compliance credit given in later enforcement action taken against a facility;

(e) Reduced frequency of monitoring or reporting by a facility;

(f) Consolidation of requirements into one (1) permit;

(g) Reduction or elimination of fees paid to the cabinet for permits, releases of toxic chemicals, or generation of hazardous waste;

(h) Access to the cabinet ombudsman who will assist in cutting red tape; and

(i) Offset of voluntary actions against future regulatory requirements.

(2) The administrative regulations shall not violate a statutory or regulatory requirement, or impair the cabinet's ability to administer a federally-delegated or federally-funded program.

Section 8. KRS 224.46-580 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes ***and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986***, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, ***toxic chemical manufacture, processing, or other use,*** and to leave the primary burden and responsibility for hazardous waste ***and toxic chemical reduction*** [~~management~~] on private industry; and further to finance assistance and coordination by imposing assessments on the ***generation*** [~~generators~~] of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with ***the generation of*** hazardous waste [~~generation~~]. ***The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.***

(2) The Natural Resources and Environmental Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.01-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste ***and toxic chemical*** management that results in a reduction of the generation of hazardous wastes ***and the release of toxic chemicals*** within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste ***and toxic chemical*** management to those industries whose products are reasonably related to the ***generation*** [~~production~~] of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste [~~management~~] assessment to be determined pursuant to this section according to the quantity by ***weight*** [~~volume~~] of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The

assessment shall be reported and paid to the Natural Resources and Environmental Protection Cabinet ***for the generation of hazardous waste*** on ***an annual*** [~~a biannual~~] basis on January 1 [~~and June 30~~] of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, 2000. After this date, no further hazardous waste management assessment shall be charged against generators.

(8) The assessment on generators shall be ***one and two-tenths*** [~~ten~~] cents ***($0.012)*** [~~($0.10)~~] per ***pound if the waste is liquid, or two-tenths of a cent ($0.002) per pound if the waste is solid*** [~~gallon if the waste is liquid, or five dollars ($5) per cubic yard if the waste is solid~~].

(a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;

(b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt; and

(c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt.

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on ***an annual*** [~~a biannual~~] basis on January 1 [~~and June 30~~] of each year. The payment shall be accompanied by a return the cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.

(13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.

(14) ***There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund. The cabinet shall provide to the center estimates of the amount of the hazardous waste assessment expected to be collected during each upcoming fiscal year.***

(15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(16)[~~(15)~~] If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(17)[~~(16)~~] If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(18)[~~(17)~~] No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

Consent Calendar

SB 100 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Calendar

SB 164, SB 170, SB 180, SB 243 and **SB 151** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 626**, by Representative Scorsone:

On page 1, line 14, after the word "***detention***" insert the word "***state administrative***"; and

On page 2, line 2, after the word "***facility***" to insert a comma "***,***" and, strike the rest of the line; and

On page 2, delete lines 3 and 4; and

On page 2, line 5, delete the line through the word "***case***"; and

On page 20, delete line 21 in its entirety.

Floor Amendment No. 1 to **SB 29**, by Representative Geveden:

On page 1, below line 8, to add the following:

"Section 2. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court;

(13) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Department" means the Department for Social Services;

(15) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(31) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33) "Parent" means the biological or adoptive mother or father of a child;

(34) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36) "Physical injury" means substantial physical pain or any impairment of physical condition;

(37) "Public offense action" means an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense;

(38) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42) "Secretary" means the secretary of the Cabinet for Human Resources;

(43) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51) "Youthful offender" means any person regardless of age, ***who comes within the criteria set forth in subsections (2), (3), (4), (6), and (7) of KRS 635.020 and is handled under the provisions of KRS Chapter 640*** [~~transferred to Circuit Court under the provisions of KRS Chapter 640 and who is subsequently convicted in Circuit Court~~].

Section 3. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed ***an offense*** [~~a felony~~] other than those described in subsections (2) and (3) of this section, [~~a misdemeanor, or a violation,~~] the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony or Class B felony, ***or an offense involving a deadly weapon or an offense wherein a deadly weapon was used or displayed,*** had attained age fourteen (14) at the time of the alleged commission of the offense, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender ***in the adult session of the Trial Court having jurisdiction over the offense***, [~~proceed in accordance with the provisions of KRS 640.010~~].

(3) If a child charged with a Class C or Class D felony has on two (2) prior separate occasions been adjudicated a public offender for a felony offense or a delinquent of a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender, [~~proceed~~] in [~~accordance with~~] the ***Circuit Court*** [~~provisions of KRS 640.010~~].

(4) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender, [~~proceed~~] in [~~accordance with~~] the ***Circuit Court*** [~~provisions of KRS 640.010~~].

(5) A child who is charged as is provided in subsection (2) of this section and is also charged with ***any other offenses*** [~~a Class C or D felony, a misdemeanor or a violation~~] arising from the same course of conduct, shall have all charges included in the same proceedings; and [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender, [~~proceed~~] in [~~accordance with~~] the ***adult session of the Trial Court having jurisdiction over the highest offense*** [~~provisions of KRS 640.010~~].

(6) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender, [~~proceed~~] in [~~accordance with~~] the ***Circuit Court*** [~~provisions of KRS 640.010~~].

(7) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 [~~and transferred to Circuit Court~~].

Section 4. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, [~~if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 or if the county attorney elects not to proceed under KRS Chapter 640,~~] the court may:

(a) If a child is fourteen (14) years of age or older, and is adjudicated a public offender in the commission of a capital offense, Class A felony or Class B felony, ***or an offense involving a deadly weapon or an offense wherein a deadly weapon is used or displayed,*** the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday; or

(b) If a child is sixteen (16) years of age or older, and is adjudicated a public offender in the commission of a felony offense and has previously been adjudicated delinquent of two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications, or has previously been adjudicated a public offender for two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday.

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) The cabinet shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.

(4) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(5) The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

[~~(6) After a child has been committed to the cabinet as provided in this section, he may not then be transferred to the Circuit Court as provided for in KRS 640.020.~~]

Section 5. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5), (6), or (7), the ***judge*** [~~court~~] shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020, the court shall upon motion by the ***Commonwealth or youthful offender conduct a*** [~~county attorney to proceed under this chapter, conduct a preliminary~~] hearing to determine if the ***youthful offender*** [~~child~~] should be transferred to ***the juvenile session of District Court*** [~~Circuit Court as a youthful offender~~]. The [~~preliminary~~] hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the [~~preliminary~~] hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the ***juvenile session of District*** [~~Circuit~~] Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public; and
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system.

(c) If, following the completion of the [~~preliminary~~] hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section, that the child should be transferred to ***the juvenile session of District*** [~~Circuit~~] Court, the court shall issue an order transferring the child [~~as a youthful offender~~] and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the ***District*** [~~Circuit~~] Court as ***a juvenile*** [~~an adult~~], except as otherwise provided in ***KRS Chapter 635*** [~~this chapter~~].

(d) If, following completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section that the child shall not be transferred [~~to the Circuit Court~~], the case shall be dealt with as provided in ***this chapter*** [~~KRS Chapter 635~~].

(3) If the child is ***not*** transferred [~~to Circuit Court~~] under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (4), and (6), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender [~~in Circuit Court~~] but shall be returned to District Court to be dealt with as provided in KRS Chapter 635."

Floor Amendment No. 1 to **SB 180**, by Representative Johnson:

On page 3, by inserting after line 16 the following new section:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the goals of controlling health care costs and improving the quality of and access to health care services will be significantly enhanced by some cooperative arrangements involving local governmental entities that would be prohibited by state and federal antitrust laws if undertaken without governmental involvement. The purpose of this section is to create an opportunity for the state to supervise arrangements and to substitute regulation for competition when an arrangement is likely to result in lower costs, or greater access or quality, than would otherwise occur in competitive marketplace. The legislature intends that approval of relationships be accompanied by appropriate conditions, supervision, and regulation to protect against private abuses of economic power by having the board of directors of any local governmental hospital be controlled by a majority of individuals appointed by the government subdivision. The transactions and procedures for local governmental hospitals described in subsection (2) to (6) of this section are intended to constitute sufficient approval and ongoing oversight by a subdivision of the state to constitute state action so that such transactions and procedures will be exempt from federal and state antitrust regulation.

(2) As used in this section, "local governmental hospital" means any hospital owned or controlled by a local governmental entity including, but not limited to, a county hospital, a city hospital, hospital district, hospital acting under or a nonprofit 501(c)(3) hospital organized under the Interlocal Cooperation Act pursuant to KRS 65.210 to 65.300 and whose board of directors is controlled by the local governmental entity.

(3) A local governmental hospital with the consent of the board of trustees and upon a finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may contract with another licensed hospital located within a reasonable distance to share or divide specialty or costly hospital services and equipment, or a local governmental hospital, with approval, may discontinue or avoid duplication of specialty or costly hospital services and equipment otherwise available to the community served for the purpose of minimizing costs for hospital services or improving health care.

(4) A local governmental hospital, with the consent of the board of directors and upon a finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may require or merge with any health facility, as defined in KRS 216B.010 if the resulting entity's board of trustees is and will on an ongoing basis be composed of a majority of directors selected by the governmental entity and the provisions of 216B.010 to 216B.990 are complied with by the local governmental hospital.

(5) A local governmental hospital, upon finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may engage in shared services, and other cooperative ventures with any other facility.

(6) A local governmental hospital, upon a finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may enter into partnerships, or form or be a shareholder of corporations, or have members of its governing body serve as directors, officers or employees of any venture, association, or partnership, or corporation authorized under this section."

Floor Amendment No. 10 to **SB 62**, by Representative Fox:

On page 148, after line 7, by adding the following:

"*(k) 1. The local board of education may reject a policy of a school council by a vote of four-fifths (4/5) of its membership. If the local board rejects the council's policy, the board shall return the policy to the school council for reconsideration. The board shall provide a specific written explanation for rejection.*

2. If the board of education and the school council have exhausted all possibilities toward resolution and are unable to resolve the dispute regarding the school council policy, the board or the school council may submit the matter in writing to the State Board for Elementary and Secondary Education for *resolution. Upon receipt of the written request for resolution, the state board shall:*

a. Provide a copy of the written request to the other party to the dispute;

b. Provide notice to the other party to the dispute that it may file with the state board an explanation of its position in the matter within twenty (20) days after receipt of the notice; and

c. Make its binding decision on the request for resolution, after the deadline for the filing of the explanation has expired. The decision may include a remand of the matter to the local board of education and school council for further attempts at resolution.

(l) The local board of education may reject a school council's policy in the areas of paragraph (j) of this subsection if it is shown by evidence to be inconsistent with the following:

1. State or federal statutes or regulations for which a waiver is not applicable;

2. The health and safety of students and personnel;

3. The district's liability insurance policy;

4. Financial resources necessary to carry out the policy;

5. The district's policies adopted pursuant to subsection (3) of this section;

6. Contractual obligations for hiring and dismissing personnel and contractual obligations to providers of goods and services; or

7. Basic educational merit."

Orders of the Day

SB 24, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **SB 24** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 21 , 1994 roll call on **SB 24** - Appendix)

SB 24 was passed and the title agreed to.

Representative Curd moved that the vote by which **SB 24** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 50, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Floor Amendment No. 1 to **SB 50**. Agreed.

Representative Curd moved that **SB 50**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 21, 1994 roll call on **SB 50** - Appendix)

SB 50, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **SB 50**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 61, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **SB 61**. Agreed.

Representative Coleman moved the adoption of Floor Amendment No. 2 to **SB 61**. Agreed.

Representative Barrows moved that **SB 61**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 21, 1994 roll call on **SB 61** - Appendix)

SB 61, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 61**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 1, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **SB 1**. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 1**. Agreed.

Representative Gray moved that **SB 1**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 21, 1994 roll call on **SB 1** - Appendix)

SB 1, by way of Committee Substitute as amended, was passed.

Representative Gray moved the adoption of the Floor Title Amendment to the Committee Substitute to **SB 1**. Agreed; and the title was agreed to.

Representative Gray moved that the vote by which **SB 1**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 107, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **SB 107**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 2 to **SB 107**. Agreed.

Representative Burch moved that **SB 107**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See March 21, 1994 roll call on **SB 107** - Appendix)

SB 107, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 107**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 137** be passed.

On the roll call the vote was: Yeas 78, Nays 6. (See March 21 , 1994 roll call on **SB 137** - Appendix)

SB 137 was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 137** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 268**, by Representative Brown:

On page 15, after line 18, by inserting:

"Section 9. KRS 224.46-505 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby finds, determines, and declares as follows:

(1) That technological progress and increases in the amounts of manufacturing are continuing to result in increasing quantities of hazardous waste being generated and prohibiting the generation of hazardous waste would result in a competitive economic disadvantage for the Commonwealth;

(2) That the Commonwealth is the site of much improper and inadequately regulated handling, treatment, transportation, storage, and disposal of hazardous waste which presents a threat to the public health, safety, and welfare and the environment;

(3) That by the enactment by the Congress of the United States of the Resource Conservation and Recovery Act of 1976, as amended (PL 94-580), the generation, transportation, treatment, storage, recycling, and disposal of hazardous waste has been determined to be a matter of national importance, recognizing that hazardous waste presents, in addition to the problems generally associated with nonhazardous waste, special dangers to health and requires a greater degree of regulation than does nonhazardous waste;

(4) That the primary responsibility for proper hazardous waste management rests with the generators, transporters, treaters, storers, recyclers, and disposers of hazardous waste, subject to rules, regulations, guidelines, and standards promulgated

by the Natural Resources and Environmental Protection Cabinet and also subject to registration or permitting by the cabinet for the purpose of effectuating safe and proper management at all steps in the hazardous waste cycle;

(5) That the participation of the private sector and the interested public in any aspect of hazardous waste management not expressly reserved as state or federal authority as set forth in KRS 224.46-510 to 224.46-570 or other statutes is encouraged, moreover, it is preferable for hazardous waste management functions to be performed by the private sector when such is in the best interest of the public and conforms with the policies and provisions set forth in KRS 224.46-510 to 224.46-570;

(6) That as a matter of policy the ***prevention of pollution or reduction of waste at its source is the preferred management option. Pollutants that cannot be prevented should be recycled in an environmentally safe manner whenever feasible. Pollution that cannot be prevented or recycled should be treated; and, disposal or other release into the environment should only be employed when no other feasible option is available***~~[Commonwealth in encouraging the development of hazardous waste management facilities should place a priority on environmentally sound alternatives to the land disposal of hazardous waste such as process changes, waste reduction, resource recovery and recycling, destruction, or treatment to render the waste nonhazardous]~~; and

(7) That as a result of the conditions described in the foregoing findings, the problems of hazardous waste generation, transportation, treatment, storage, recycling, and disposal have become a matter of extreme state concern necessitating action by the General Assembly to protect the public health, safety, and welfare and the environment of the Commonwealth.".

Orders of the Day (Continued)

SB 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 15** be passed.

On the roll call the vote was: Yeas 74, Nays 3. (See March 21 , 1994 roll call on **SB 15** - Appendix)

SB 15 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **SB 15** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 138 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **SB 138** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 21 , 1994 roll call on **SB 138** - Appendix)

SB 138 was passed and the title agreed to.

Representative McElroy moved that the vote by which **SB 138** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 150, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Committee Amendment No. 1 to **SB 150**. Agreed.

Representative Gray moved that **SB 150**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 6. (See March 21, 1994 roll call on **SB 150** - Appendix)

SB 150, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 150**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 87 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **SB 87** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 21 , 1994 roll call on **SB 87** - Appendix)

SB 87 was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 87** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **SB 92**, by Representative Curd:

On page 13, after line 23, by adding the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Office of Minority Educator Recruitment and Retention is established to increase the percentage of minority educators in the Commonwealth and to help retain those currently working in education. Its goals shall be:

(a) Increase the percentage of minority educators in proportion to the number of minority students;

(b) Encourage an increase in the percentage of minority individuals on the staffs of all school districts;

(c) Create programs to identify minority students in grades seven (7) through twelve (12) with college potential;

(d) Increase the pool of minority educators through aggressive recruitment and financial assistance to candidates, including paraprofessionals, those with degrees or careers in other fields, and community college students; and

(e) Provide administrative support for networking among minority educators and for implementation of the strategic plan.

(2) The office shall support efforts to improve and retain minority educators conducted by the Education Professional Standards Board, the Department of Education, the Council on Higher Education, the institutions of higher education, and local school districts.

(3) The staff of the office shall be employed by and report to the State Board for Elementary and Secondary Education. The office shall be housed in the Department of Education.";

On page 13, line 24, after "Section", by changing "5" to "6";

On page 17, line 2, after "Section", by changing "6" to "7".

Floor Amendment No. 2 to **SB 258**, by Representative Worthington:

On page 5, after line 14, insert the following new sections to read as follows:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 9 of this Act, "plan" means a strategic weather emergency response plan developed by the Transportation Cabinet to prepare for, and respond to, emergency and extraordinary weather conditions, especially record snowfalls, in the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall develop a plan to prepare for, and respond to, weather emergencies especially record snowfalls. The plan shall include a list of persons whose services have been negotiated by contract and who are available to immediately respond to a state weather emergency.

(2) The plan shall include a list of every state road construction contractor who currently holds a state contract with the Transportation Cabinet. The Transportation Cabinet shall negotiate a prepurchase contract with each state contractor to facilitate rapid response to a weather emergency. The prepurchase contract required by this subsection shall be negotiated no later than November 15, 1994, and updated annually. The prepurchase contract shall separately identify the contractor's personnel and equipment costs per hour for services to be rendered under the plan. The prepurchase contract shall also include:

(a) An inventory of personnel and equipment;

(b) A twenty-four (24) hour telephone number for the contractor; and

(c) The name, address, and telephone number of any subcontractor whom the contractor anticipates to employ to respond to the plan.

(3) In addition to the information required by subsection (2) of this section, the plan shall inventory all public and private resources of personnel and equipment available to respond to the plan. The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to develop an application for any person, not included in subsection (2) of this section, that wants to respond to the plan. The application shall at a minimum include the following information:

(a) Address and twenty-four (24) hour telephone number of the applicant;

(b) Financial statement from the applicant;

(c) Experience of the applicant;

(d) Inventory of the applicant's personnel and equipment;

(e) Price per hour charged by the applicant for his service; and

(f) Name, address, and telephone number of any subcontractors anticipated to be employed by the applicant to respond to the plan.

(4) A list of applicants pursuant to subsection (3) of this section shall be compiled no later than November 15, 1994, and updated annually. The department shall negotiate a prepurchase contract with each person on the list that identifies the same information required of state contractors pursuant to subsection (2) of this section.

(5) A person seeking to be removed from the list shall notify the department in writing. The department shall remove a person from the eligibility list within three (3) working days of receipt of the notice.

SECTION 6. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The plan developed by the department pursuant to Section 5 of this Act shall include an inventory of personnel and equipment from the following:

(a) Each private contractor on the list compiled pursuant to Section 5 of this Act;

(b) Each county fiscal court;

(c) Each incorporated city;

(d) Each state agency, including the Kentucky National Guard; and

(e) The name, address, and twenty-four (24) hour telephone number of a contact person for each entity identified in this subsection. If a contact person changes for any entity identified in this subsection, the entity shall immediately notify the department with a replacement contact.

SECTION 7. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The plan shall specifically delineate how the Transportation Cabinet will coordinate the use of all personnel, equipment, and entities available for emergency response to extraordinary weather conditions. The plan shall specify how personnel, equipment, and other resources will be allocated for each road in the Commonwealth and shall list each road by order of priority for coverage under the plan. The plan shall allocate adequate personnel, equipment, and other resources to ensure coverage is coordinated for each road during extraordinary weather conditions. If the cabinet cannot coordinate adequate personnel, equipment, and other resources to provide coverage for each road during extraordinary weather conditions, the cabinet shall immediately review inadequacies in the plan and take appropriate measures to avoid the same inadequacies in the future.

(2) Every state road construction contractor and private contractor on the list compiled pursuant to subsections (2) and (3) of Section 5 of this Act shall be required to respond to a weather emergency under the plan and shall be required to provide the personnel, equipment, and other resources committed to the plan in the prepurchase contract with the Cabinet. If a state road construction contractor or private contractor on the list fails to provide the personnel, equipment, or other resources committed in the prepurchase agreement during a weather emergency, the contractor shall immediately be removed from the list and shall be prohibited from bidding on any highway construction project for five (5) years. The secretary of the Transportation Cabinet may reinstate a contractor's ability to bid on a highway construction project if the contractor documents in writing extraordinary circumstances that prohibited him from fulfilling his commitment of personnel, equipment, or other resources during a weather emergency.

SECTION 8. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

If the Governor declares a weather emergency due to snow, ice, rain, or other extraordinary act of nature, the secretary of the Transportation Cabinet may transfer money from any appropriation unit within the Transportation Cabinet to ensure an immediate response by the state to the weather emergency.

SECTION 9. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet shall use state employees and state equipment to meet the demands of normal weather conditions and snow removal needs of the Commonwealth. The Transportation Cabinet shall use a person on the eligibility list pursuant to Section 5 of this Act only in conjunction with the plan for extreme emergency or extraordinary conditions."

Orders of the Day (Continued)

SB 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 78** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 21 , 1994 roll call on **SB 78** - Appendix)

SB 78 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **SB 78** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 51, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to **SB 51**. Agreed.

Representative Rapier moved that **SB 51**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 70, Nays 8. (See March 21, 1994 roll call on **SB 52** - Appendix)

SB 51, by way of Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which **SB 51**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 88, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **SB 88**. Agreed.

Representative Moberly moved that **SB 88**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 21, 1994 roll call on **SB 88** - Appendix)

SB 88, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 88**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 162, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **SB 162**. Agreed.

Representative Moberly moved that **SB 162**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 21, 1994 roll call on **SB 162** - Appendix)

SB 162, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 162**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 626**, by Representative Scorsone:

On page 1, line 14, after the word "***detention***" by inserting "***state administrative***"; and

On page 20, by deleting line 21 in its entirety.

Orders of the Day (Continued)

SB 76, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **SB 76**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 76**. Agreed.

Representative Farrow inquired if Floor Amendment No. 1 constituted a piggyback to **SB 76**.

The Speaker ruled that Floor Amendment No. 1 to **SB 76** was not a piggyback.

Floor Amendment No. 1 to the Committee Substitute to **SB 76** was adopted.

Representative Stumbo moved that **SB 76**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 68, Nays 20. (See March 21, 1994 roll call on **SB 76** - Appendix)

SB 76, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 76**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 119, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 2 to **SB 119**.

Representative Lindsay inquired if Floor Amendment No. 2 was germane to **SB 119.**

The Speaker ruled that Floor Amendment No. 2 was germane to **SB 119**.

Representative Long moved the adoption of Floor Amendment No. 2 to **SB 119**. Agreed.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 119**.

Representative Farrow inquired if Committee Amendment No. 1 was germane to **SB 119**.

The Speaker ruled that Committee Amendment No. 1 was germane to **SB 119**.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 119**. Agreed.

Representative Coleman moved the adoption of Floor Amendment No. 3 to **SB 119**.

Representative Farrow inquired if Floor Amendment No. 3 was germane to **SB 119**.

The Speaker ruled that Floor Amendment No. 3 was not germane to **SB 119**.

Representative Coleman moved the adoption of Floor Amendment No. 4 to **SB 119**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to **SB 119**.

Representative Farrow inquired if Floor Amendment No. 1 to **SB 119** required a fiscal impact statement.

The Speaker ruled that Floor Amendment No. 1 would need a fiscal impact statement only if required by a majority vote of the members of the House.

Representative Farrow moved that a fiscal impact statement be required on Floor Amendment No. 1 to **SB 119** as provided in Rule 53 of the House Rules.

On the roll call for a fiscal impact statement on Floor Amendment No. 1 to **SB 119**, the vote was **Yeas 45**--Adams, Adkins, Barrows, Bentley, Bondurant, Burch, L. Clark, Clarke, Coleman, Collins, Crenshaw, Cyrus, Deskins, DeWeese, Donnermeyer, Farrow, Gedling, Gray, Hancock, Hatcher, Heleringer, Lear, Lee, Lile, Little, Long, Maggard, Marzian, Mason, McElroy, Moberly, Northup, Palumbo, Riggs, Scorsone, Scott, Shacklette, Simpson, Stacy, Stengel, Trapp, Wayne, Worthington, Yates, Zimmerman. **Nays 46**--Allen, Altman, Ballard, Brown, Bruce, Bryant, Buis, Butler, Callahan, Cave, P. Clark, Curd, Damron, Farley, Ford, Fox, French, Gee, Graham, Hampton, Harper, Jensen, Johnson, Keith, Kerr, Lewis, Lindsay, Maricle, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Nunn, Rasche, Reinhardt, Ridley, Sanders, B. Smith, R. Smith, Stumbo, Todd, Treesh, Turner, Walton.

The motion to require a fiscal impact statement on Floor Amendment No. 1 to **SB 119** was rejected.

Representative Farrow moved that a fiscal analysis be required on Floor Amendment No. 1 to **SB 119** as provided in Rule 52 of the House Rules.

On the roll call to required that Floor Amendment No. 1 to **SB 119** a fiscal analysis, the vote was **Yeas 46**--Adams, Adkins, Barrows, Bentley, Bondurant, Burch, Butler, Callahan, L. Clark, Clarke, Coleman, Crenshaw, Curd, Cyrus, Deskins, Farrow, Gray, Hancock, Hatcher, Lear, Lee, LeMaster, Lile, Little, Long, Maggard, Marzian, Mason, McElroy, Moberly, Nesler, Northup, Palumbo, Richards, Riggs, Riner, Scorsone, Scott, Shacklette, Simpson, Stacy, Stengel, Trapp, Wayne, Worthington, Yates,. **Nays 49**--Allen, Altman, Ballard, Brown, Bruce, Bryant, Buis, Cave, P. Clark, Collins, Damron, DeWeese, Donnermeyer, Farley, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Hampton, Harper, Heleringer, Jensen, Johnson, Keith, Kerr, Lewis, Lindsay, Maricle, Mullinix, Napier, Nelson, Noland, Nunn, Rapier, Rasche, Reinhardt, Ridley, Sanders, B. Smith, R. Smith, Stumbo, Todd, Treesh, Turner, Walton, Zimmerman.

The motion that Floor Amendment No. 1 to **SB 119** require a fiscal analysis was rejected.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to **SB 119**.

On the roll call to adopt Floor Amendment No. 1 to **SB 119**, the vote was **Yeas 36**--Allen, Altman, Ballard, Bruce, Bryant, Buis, Callahan, P. Clark, Farley, Ford, French, Gedling, Geveden, Graham, Harper, Jensen, Johnson, Keith, Lewis, Lindsay, Maricle, Morris, Mullinix, Nesler, Noland, Nunn, Ridley, Sanders, Scott, B. Smith, R. Smith, Todd, Treesh, Turner, Walton, Worthington. **Nays 57**--Adams, Adkins, Arnold, Bentley, Bondurant, Burch, Butler, Cave, L. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farrow, Fox, Gray, Hampton, Hancock, Hatcher, Heleringer, Kerr, Lear, Lee, Lile, Little, Long, Lyne, Maggard, Marzian, Mason, McElroy, Moberly, Napier, Nelson, Northup, Palumbo, Rapier, Reinhardt, Richards, Riggs, Riner, Scorsone, Shacklette, Simpson, Stacy, Stengel, Stumbo, Trapp, Wayne, Yates, Zimmerman.

Floor Amendment No. 1 to **SB 119** was rejected.

Representative Morris moved that **SB 119**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See March 21, 1994 roll call on **SB 119** - Appendix)

SB 119, as amended, passed and the title agreed to.

Representative Morris moved that the vote by which **SB 119**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 678**, by Representative Hatcher:

On page 1, by deleting lines 23 to 25 in their entirety; and

On page 2, by deleting lines 1 to 2 in their entirety; and

On page 2, line 3, by deleting "*(4)*" and inserting in its place "*(3)*"; and

On page 2, line 10, by removing the brackets and strikethroughs on the line; and

On page 2, by deleting lines 18 to 27 in their entirety; and

By deleting everything on pages 3, 4, and 5.

Senate Message

Announcing passage of **SB 25, SB 270, SB 278, SB 319, HB 9, HB 222, HB 284, HB 316, HB 319, HB 320, HB 321, HB 349, HB 379, HB 395, HB 421, HB 436, HB 445, HB 452, HB 474, HB 449, HB 500, HB 512, HB 526, HB 527, HB 528, HB 529, HB 567** and **HB 650**. (Time: 5:50 p.m.)

Orders of the Day (Continued)

HB 453, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of Committee Amendment No. 1 to **HB 453**. Agreed.

Representative Rapier moved that **HB 453**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 21, 1994 roll call on **HB 453** - Appendix)

HB 453, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 453**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 381 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HB 381** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 21 , 1994 roll call on **HB 381** - Appendix)

HB 381 was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 381** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 833 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 833** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 21 , 1994 roll call on **HB 833** - Appendix)

HB 833 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 833** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 662, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 662**. Agreed.

Representative Geveden moved that **HB 662**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 21, 1994 roll call on **HB 662** - Appendix)

HB 662, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 662**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 13**, by Representative Rapier:

On page 7, after line 26, by adding the following:

"Section 3. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's Higher Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Higher Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public institution of higher education***,*** ~~[or]~~ the Council on Higher Education***, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television*** during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on Higher Education Student Advisory Committee;
3. Associations representing faculty from universities and community colleges;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The State Board for Elementary and Secondary Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. [~~Appointments shall be submitted to the 1992 Senate and House of Representatives for confirmation as soon as practicable following February 20, 1992. Subsequent~~] Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on Higher Education pursuant to KRS 164.011, except the student member. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Higher Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) ***The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.***

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen [~~board~~] vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 1. KRS 164.746, as amended in Section 4 of 1994 Senate Bill 40, is further amended to read as follows:

(1) The authority shall be governed and all of its powers, duties, and functions exercised by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the executive director of the Council on Higher Education and the secretary of the Department of Finance shall serve as non-voting ex officio members. [~~Effective July 1, 1994, three (3) members shall serve for a term of two (2) years and four (4) members shall serve for a term of four (4) years. All succeeding terms~~] The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of two (2) years. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding two (2) years and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings. A majority of the voting members shall constitute a quorum for the transaction of any business, provided, however, that the meeting must be called by the chairman ten (10) days prior to the meeting date and either the chairman or the chairman-elect must be present for the transaction of any business.

(6) The board shall adopt rules and regulations, not inconsistent with law, governing the conduct of the authority and may appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties; provided, however, that the responsibility for the management of all funds shall be vested in the Finance and Administration Cabinet.

[~~(7) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, seven (7) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.~~]

Section 2. KRS 164A.050, as amended in Section 5 of Senate Bill 40, is further amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on Higher Education, the secretary of the Finance and Administration Cabinet and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. ~~[Effective July 1, 1994]~~ ***Of the new members of the corporation so appointed***, two (2) ~~[members]~~shall ~~[serve]~~ ***continue in office*** for a term of four (4) years, and two (2) shall ~~[serve]~~ ***continue in office*** for a term of ~~[two (2)]~~ ***three (3) years***. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

~~[(13) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, four (4) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.]~~

Section 6. The existing boards of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation shall continue in operation and changes made by Sections 4 and 5 of this Act shall only apply to vacancies and replacements occurring subsequent to the effective date of this Act. Contrary provisions of Section 6 of 1994 Senate Bill 40 as they relate to these two specific boards are hereby repealed.

Section 7. Whereas it is the intention of the General Assembly to make modifications in Senate Bill 40 which has an emergency clause attached, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

Floor Title Amendment to **SB 13**, by Representative Rapier:

By amending the title to read as follows:

"AN ACT relating to state agencies and declaring an emergency."

Orders of the Day (Continued)

HB 740 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 740** be passed.

On the roll call the vote was: Yeas 87, Nays 5. (See March 21 , 1994 roll call on **HB 740** - Appendix)

HB 740 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 740** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 60 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HCR 60** be adopted.

On the roll call the vote was: Yeas 85, Nays 1. (See March 21 , 1994 roll call on **HCR 60** - Appendix)

HCR 60 was adopted.

Representative Stumbo moved that the vote by which **HCR 60** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HCR 64** be adopted.

On the roll call the vote was: Yeas 83, Nays 5. (See March 21 , 1994 roll call on **HCR 64** - Appendix)

HCR 64 was adopted.

Representative Burch moved that the vote by which **HCR 64** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 77, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of Committee Amendment No. 1 to **HJR 77**. Agreed.

Representative Worthington moved that **HJR 77**, as amended, be adopted.

On the roll call the vote was: Yeas 94, Nays 0. (See March 21, 1994 roll call on **HJR 77** - Appendix)

HJR 77, as amended, was adopted.

Representative Worthington moved that the vote by which **HJR 77**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 91 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HJR 91** be adopted.

On the roll call the vote was: Yeas 96, Nays 0. (See March 21 , 1994 roll call on **HJR 91** - Appendix)

HJR 91 was adopted.

Representative Crenshaw moved that the vote by which **HJR 91** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 865**, by Representative B. Smith:

On page 12, lines 13 and 14, by deleting "***, and unallocated annuity contracts issued by member insurers,***"; and

On page 13, lines 4 and 5, by deleting "***or, in the case of unallocated annuity contracts, to the persons who are the contract holders,***"; and

On page 13, line 17, by deleting "***:***"; and

On page 13, line 18, by deleting "***1.***"; and

On page 13, line 20, by deleting "***; and***"; and

On page 13, by deleting lines 21 and 22 in their entirety and by deleting all underlined material on line 23; and

On page 15, line 6, by deleting "***issued to an employee benefit plan***"; and

On page 15, by deleting lines 7 to 11 in their entirety; and

On page 15, line 24, by deleting "***;***"; and

On page 15, by deleting lines 25 to 27 in their entirety; and

On page 16, by deleting lines 1 to 9 in their entirety; and

On page 16, by deleting all underlined material on line 10; and

On page 17, by deleting all underlined material on lines 25 to 27; and

On page 18, by deleting all underlined material on lines 1 and 2; and

On page 18, line 25, by deleting the bracketing and strikethroughs; and

On page 18, by deleting all underlined material on lines 26 and 27; and

On page 19, line 1, by deleting all underlined material on the line.

Recess

Representative Stumbo moved that the House recess for a meeting of the Committee on Rules in the Speaker's Office.

Representative Stumbo moved that the rules be suspended for a special meeting of the Committee on Banking and Insurance and that the three day posting requirement be waived on **HB 755.** Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bills have been posted for passage in the Regular Orders of the Day for March 22, 1994: **HB 853, HB 854, HB 865, HR 92, SB 154, SB 241**

The Committee on Rules reported that **HB 10, HB 877, SB 49, SB 52, SB 185, SB 208, SB 249, HB 439, HB 443, HB 503, HB 879, SB 177, SB 199, SB 201, SB 234, HCR 105, SJR 10, HB 866, HR 61, HR 76, HR 93, SB 29, SB 33, SB 74, SB 89, SB 153, SB 172, SB 186, SB 267, SB 281** and **SJR 51** has or have been posted for passage in the Orders of the Day for March 22, 1994.

The Committee on Rules reported that the following Bills have been recommitted:

Banking and Insurance: **HB 599**

Health and Welfare: **HB 59**

Business Organizations and Professions: **HB 163, HB 911, HB 918**

Counties and Special Districts: **HB 885**

Judiciary: **HB 520, HB 695, HB 910, HB 915**

Education: **HB 694**

State Government: **HB 655**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Education: **SB 81**

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the three day posting requirement be waived on **HR 107**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 297**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 367**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 246**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 195, HR 97, HR 107** and **SB 351**. Agreed.

Representative Stumbo moved that the following Consent Bill be posted for passage in the Regular Orders of the Day: **HB 865**. Agreed.

Representative Fox moved that Floor Amendment No. 7 to **SB 62** be withdrawn. Agreed.

Representative Barrows moved the adoption of the following **Legislative Citation No. 123**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Janie Stout for having the desire and perseverance to further pursue your education at Midway College in Midway, Kentucky and for being a spokes person for KERA. Your involvement in KERA has kept the community of Woodford County as well as the state of Kentucky abreast on numerous educational issues. The entire membership joins Representative Joe Barrows in commending you on your efforts and extends its very best wishes on this memorable occasion.

Representative Stumbo moved that **SB 316** be reassigned to the Committee on Counties and Special Districts and that the three day posting requirement be waived. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HCR 80, HB 842, HB 283, HB 894, HB 926** and **HCR 73,** and "nay" on **HB 605**. Agreed.

Representative Mason moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mason moved that he be recorded as voting "yea" on **HB 51**. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **HB 699**, by Representative Collins:

By deleting "employees and former employees of the Department of Corrections" and inserting in lieu thereof "state employees and former state employees".

Floor Amendment No. 1 to **HB 699**, by Representative Collins:

On page 1, line 1, by deleting "196" and inserting in lieu thereof "12"; and

On page 1, line 3, by deleting "***the***" in front of "***department***" and inserting in lieu thereof "***any state***".

Motions, Petitions and Communications (Continued)

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 453, HB 381, SB 50, SB 107** and **SB 1**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 107**. Agreed.

Representative Farley moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Farley moved that he be recorded as voting "yea" on **SB 15**, **SB 50** and **SB 150**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **SB 50**. Agreed.

Representative Nelson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nelson moved that he be recorded as voting "nay" on **HB 455**. Agreed.

Representative Trapp moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Trapp moved that he be recorded as voting "yea" on **SB 15** and **SB 24**. Agreed.

Representative Trapp moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Trapp moved that his vote be changed from "yea" to "nay" on **HB 302**. Agreed.

Announcements

The Clerk announced the following meetings:

Health and Welfare, 9:00 a.m., March 22, 1994, Room 131

State Government, March 22, 1994, Room 149

Banking and Insurance, 10:00 a.m., March 22, 1994

Economic Development, 11:00 a.m., March 22, 1994, Room 131

Agriculture and Small Business, 9:30 a.m., March 22, 1994, Room 125

Transportation, upon adjournment, House Chambers

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 22, 1994.

On the roll call the vote was **Yeas 82**--Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Brown, Bruce, Bryant, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Johnson, Kerr, Lear, Lee, Lewis, Lindsay, Little, Lyne, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Trapp, Treesh, Turner, Walton, Worthington, Yates, Zimmerman. **Nays 6**--Buis, Heleringer, Jensen, LeMaster, Maggard, Napier.

The motion to adjourn was adopted.

TUESDAY, MARCH 22, 1994

FIFTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Mike Morris, First Baptist Church, Wickliffe.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Senate Message

Message received on **HB 158, HB 282, HB 358, HB 385, HB 387, HB 484, HB 569** and **HB 684**: The Senate has passed **HB 158**, with Senate Floor Amendment, **HB 282**, with Senate Committee Amendment and Senate Floor Amendment, **HB 358**, by way of Senate Committee Substitute, **HB 385**, with Senate Committee Amendments, **HB 387**, with Senate Committee Amendment, **HB 484**, with Senate Committee Amendment, **HB 569**, by way of Senate Committee Substitute, and **HB 684**, with Senate Committee Amendments, and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative McElroy moved that the reading of the Journal of March 21, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stumbo introduced the Governor's Scholars.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 124**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Cory Birdwhistell, Ben Brennan, Julie Brooks, Bonnie Chinn, Ling Xing Man, Eric Mills, Wake Norris, Stacie Steinbock, Shane White, Charles Wright and Theresa Lawacki, for extraordinary academic achievement resulting from inherent classroom performance, a dedication to learning and commitment to hard work. Now let it be known that exemplary academic excellence such as has been demonstrated by the prestigious award recipient, herein, has earned said individuals the eminent Governor's Scholars Award with distinguished recognition for exemplary scholastic achievement. This time honored body recognizes the tenacity and remarkable abilities of these substantive individuals and offers best wishes for continued academic successes in this decade and beyond. The House of Representatives joins with Representative Greg Stumbo in commending you for your accomplishment and wishes you every success in the future.

Representative Stumbo moved that the rules be suspended to allow communication. Agreed.

Representative Collins moved that the rules be suspended to allow floor privileges to a special guest. Agreed.

Floor Amendment

Floor Amendment No. 11 to **SB 62**, by Representative Moberly:

On page 142, line 2, by inserting after "education." the following:

"***The use of public funds for the payment of the membership dues of a local school board or its members to a professional association or organization that engages in lobbying activities in the Kentucky General Assembly shall be prohibited and shall not be deemed to promote public education.***"

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Banking and Insurance: **SB 361**

Judiciary: **SB 278, SB 319**

Natural Resources and Environment: **SB 25**

State Government: **SB 270**

Report of Committees

The Committee on Rules reported that **HB 306** has been posted for passage in the Orders of the Day for March 22, 1994.

Report of Committees (Continued)

The Committee on Agriculture and Small Business reported **HR 106** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 106, A RESOLUTION in honor of the seventy fifth anniversary of the Kentucky Farm Bureau and the fiftieth anniversary of Kentucky Farm Bureau Insurance Companies.

WHEREAS, the Kentucky Farm Bureau organizations are active in all 120 Kentucky counties; and

WHEREAS, the Kentucky Farm Bureau has proved itself to be an enduring corporate citizen of Kentucky through its efforts on behalf of Kentucky farmers, rural residents and other Kentuckians; and

WHEREAS, from its beginnings in 1919 to the present time, the Kentucky Farm Bureau Federation has ably represented the interests of the agricultural industry and has worked tirelessly for economic progress and civic improvement for all citizens of the Commonwealth; and

WHEREAS, after 50 years of service to Kentuckians, Kentucky Farm Bureau Insurance has grown from a small farmers' insurance company to the state's largest domestic property and casualty insurer, providing all-around coverage, all-around Kentucky; and

WHEREAS, the dual anniversaries of these pre-eminent Kentucky companies are worthy observances for all citizens, and especially the 350,000 families who are members of the Farm Bureau Federation and the 770,000 policyholders who hold the security of Farm Bureau insurance protection;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is indeed proud to recognize the Kentucky Farm Bureau Federation upon its seventy fifth anniversary and Kentucky Farm Bureau Insurance Companies upon their fiftieth anniversary, and wishes both continued success in all future endeavors.

Section 2. That this honorable body hereby designates 1994 the official Kentucky Farm Bureau Anniversary Celebration Year, and invites all citizens of the Commonwealth to participate in the many commemorative activities planned throughout 1994 in honor of this most worthwhile observance.

Section 3. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Mark Farrow for presentation to the Kentucky Farm Bureau Federation and Kentucky Farm Bureau Insurance Companies.

The Committee on Appropriations and Revenue reported **SB 171**, with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that same should pass. Orders referred to the Committee on Rules.

The Committee Substitute to **SB 171** is as follows:

SB 171, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.870 is amended to read as follows:

As used in KRS 61.872 to 61.884, unless the context requires otherwise:

(1) "Public agency" means:
   - (a) Every state or local government officer;
   - (b) Every state or local government department, division, bureau, board, commission, and authority;
   - (c) Every state or local legislative board, commission, committee, and officer;
   - (d) Every county and city governing body, council, school district board, special district board, and municipal corporation;
   - (e) Every state or local court or judicial agency;
   - (f) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;
   - (g) Any body created by state or local authority in any branch of government;
   - (h) Any body which derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds;

(i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of this subsection; by a member or employee of such a public agency; or by any combination thereof.

(j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection; and

(k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of this subsection;

(2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. ***"Public record" shall not mean a Social Security number collected in association with the materials listed in this subsection that are prepared, owned, used, in the possession of, or retained by, a public agency.*** "Public record" shall not include any records owned or maintained by or for a body referred to in subsection (1)(h) of this section that are not related to functions, activities, programs, or operations funded by state or local authority;

(3) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control; and

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

Section 2. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that ***a*** [~~no~~] court shall ***not*** authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature ***including a person's Social Security number,*** where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. Records confidentially disclosed to an agency, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records, and which are compiled and maintained:

a. In conjunction with an application for a loan;

b. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

c. For the grant or review of a license to do business.

2. The exemptions provided for in subparagraph 1. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(f) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again;

(g) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(h) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(i) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(j) All public records or information the disclosure of which is prohibited by federal law or regulation; and

(k) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(2) ***An*** ~~[No]~~ exemption in this section shall ***not*** be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) ***An*** ~~[No]~~ exemption in this section shall ***not*** be construed to deny, abridge or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores and preliminary and other supporting documentation. A public agency employee, including university employees, applicant or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

Section 3. KRS 61.975 is amended to read as follows:

(1) ***Except for Social Security numbers,*** public records stored on a database or a geographic information system which are subject to KRS 61.870 to 61.884, but are not requested for a commercial purpose, shall be made available for inspection to the public upon request at the offices of the public agency.

(2) ~~[Such]~~ Records shall be available for copying either in paper form, in a size not less than 8 1/2" by 11", in at least one (1) color on white paper; or, in a flat file electronic American Standard Code for Information Interchange (ASCII) format, as designated by the party requesting the records, either at a reasonable fee not to exceed the actual cost of copying, not including the cost of staff time.

(3) A public agency, acting alone or in cooperation with other public agencies or private parties, when providing services and products available through a database or a geographic information system, which services and products require the creation of non-standardized unique, custom-made records, may impose and collect reasonable fees for creating such products. For purposes of this section, any request for a public record in a form other than the form described in subsection (2) of this section, shall be considered non-standardized. Fees under this subsection shall not exceed the reasonable cost of computer and personnel time and printing cost needed to produce such products.

(4) If a party wishes to access by electronic means the database or the geographic information system software programming source codes, object codes, and geocoded digital database or systems, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for ~~[such]~~ agreements, which fees shall not exceed the cost of physical connection to the system and the reasonable cost of computer time access charges.

Section 4. KRS 186.018 is amended to read as follows:

For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the Transportation Cabinet shall be used to ascertain the driving history record of each person who is licensed to operate a motor vehicle within the Commonwealth. ***The driving history records maintained by the Transportation Cabinet shall keep an operator's Social Security number confidential and shall disclose the number only upon an order by a court of competent jurisdiction or a written request by a law enforcement agency.*** The Transportation Cabinet shall destroy, and shall not maintain records of moving traffic convictions that are more than five (5) years old. Notwithstanding, for any licensee who now holds, who has applied for, or has ever held a Class A, B, or C license issued pursuant to KRS 281A.170, the cabinet shall keep conviction records indefinitely.

Section 5. KRS 186.412 is amended to read as follows:

(1) Every person seeking an ***instruction permit, original or renewal*** operator's license ***to operate***~~[, or a renewal of an~~

~~operator's license for the operation of~~] a motor vehicle, motorcycle, or moped***,*** or an identification card shall apply in person to the circuit [~~Court~~] clerk of the county in which the applicant resides ***on*** [~~and shall make application upon~~] a form furnished by the Transportation Cabinet. The application form shall [~~contain and shall~~] require the ***applicant's*** full [~~and~~] legal name and signature, date of birth, Social Security number, sex, present resident address***, and brief description*** of the applicant[~~, and briefly describe the applicant~~]. It shall also state ***if*** [~~whether~~] the applicant has previously been licensed as an operator and if so, when and by what state or county, ***if a*** [~~whether any~~] license has ever been canceled, suspended, revoked, or refused, and if so, the date of and reason for the cancellation, suspension, revocation, or refusal, and [~~such~~] other information as may be required.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing [~~thereon~~] a color photograph of the ***applicant. The*** [~~licensee, which~~] photograph shall be taken by the circuit clerk ***so*** [~~in such a manner~~] that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. ***The plastic laminated operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. The new numbering system shall be fully implemented no later than July 1, 1995.*** The license shall ***also*** designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under ***the age of*** twenty-one (21).

(3) ***After July 1, 1995, a person may, before the renewal date for his operator's license, request a circuit clerk to issue a new plastic laminated operator's license that does not contain the person's Social Security number. The person shall be charged the fee established by KRS 186.531 for renewing an operator's license if the person requests a license pursuant to this subsection.***

(4) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(5)[~~(4)~~] The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(6)[~~(5)~~] Every person seeking a color photo identification card may apply in person to the circuit clerk in the county in which he resides. When requested by the clerk, a person shall bring a birth certificate and Social Security card. The Social Security card shall contain his signature. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form. The identification card shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21).

(7)[~~(6)~~] Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(8)[~~(7)~~] The cabinet shall provide on each license to operate motor vehicles or motorcycles issued a space for the licensed driver's blood type; a space for a medical insignia to be stamped with the proper insignia by the Circuit Court clerk, if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and a statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195. In addition, if the motor vehicle operator denotes a physical ailment or drug allergy on the license, he may apply for and shall receive, for a fee of one dollar ($1), a medical insignia decal which may be affixed to the lower left side of the front windshield of a motor vehicle. The applicant shall remit a fee of one dollar ($1) to the circuit clerk, at which time the clerk shall issue the insignia.

(9)[~~(8)~~] An operator's license [~~as issued~~] pursuant to this section shall be designated a Class D license.

(10)[~~(9)~~] ***A*** [~~No~~] person shall ***not*** have more than one (1) license.

Section 6. KRS 187.310 is amended to read as follows:

The cabinet shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of KRS 187.290 to 187.620, which abstract shall also fully designate the motor vehicles, if any, registered in the name of ***the*** [~~such~~] person, and if there shall be no record of any conviction of ***the*** [~~such~~] person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by ***the*** [~~such~~] person, the department shall so certify. The certified abstract shall not ***include a person's Social Security number and shall not*** include information concerning any violation of the law, injury, or damage which occurred earlier than three (3) years prior to the request. [~~Such~~] Abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. The certified abstract shall not include accident reports filed with the Department of State Police under KRS 189.635 and the cabinet shall not furnish to any person the accident report of a driver other than himself. This section shall in no way preclude the right of any court of law, law enforcement officer, or attorney representing the individual affected from securing full and complete information concerning the record of that individual ***subject to the limitations of Section 4 of this Act***.

Section 7. KRS 281A.170 is amended to read as follows:

(1) The commercial driver's license shall be marked "commercial driver's license" or "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include, but is not limited to, the following information:

(a) The name and present resident address of the licensee;

(b) The licensee's color photograph;

(c) A physical description of the licensee including sex, height, weight, and eye color;

(d) The licensee's date of birth;

(e) ~~[The licensee's Social Security number;~~

~~(f)~~] The licensee's signature;

(f)[~~(g)~~] The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;

(g)[~~(h)~~] The name of this state;

(h)[~~(i)~~] The dates between which the license is valid; and

(i)[~~(j)~~] Any other information required by the cabinet***, except for a person's Social Security number***.

(2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the state police.

(a) Classifications:

1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.

2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.

3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:

a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or

b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.

4. Class D - All other vehicles not listed in any other class.

5. Class E - Moped only.

6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.

(b) Endorsements:

1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.

2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.

3. "P" - Authorizes operation of vehicles carrying passengers.

4. "N" - Authorizes operation of tank vehicles.

5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.

6. "R" - Authorizes operation of all other endorsements not otherwise specified.

(c) Restrictions:

1. "K" - Restricts the driver to operation of vehicles not equipped with airbrakes.

2. "I" - Restricts the driver to Kentucky intrastate commerce driving.

3. "S" - Restricts the driver to school buses, church buses, buses operated by a mass transit authority created under the provisions of KRS Chapter 96A, buses operated under a nonprofit bus certificate established pursuant to KRS 281.619, and fixed route buses operated by a public entity pursuant to the provisions of

KRS Chapter 281.

4. "L" - Shall not include a Class "A" bus.
5. "J" - Shall not include a Class "A" or "B" bus.
6. "O" - Shall not include tractor, semitrailer style vehicles.
7. "Z" - Exempt intracity zones for commercial vehicles.
8. "1-13" - Other restrictions.

(3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.

(4) A commercial driver's license issued pursuant to this chapter shall expire in four (4) years unless the license was issued pursuant to the terms of KRS 281A.200, or unless the license was issued to a person under the age of twenty-one (21).

(5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.

(6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.

Section 8. KRS 281A.120 is amended to read as follows:

(1) A commercial driver's instruction permit may be issued to an individual twenty-one (21) years and older who holds a valid automobile Class D driver's license and who has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven. Instruction permits shall be class specific.

(2) A commercial driver's instruction permit may be issued to an individual eighteen (18) years of age who holds a valid automobile Class D driver's license, who has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven, if the individual only drives a commercial motor vehicle in intrastate commerce and does not drive a school bus or a vehicle hauling hazardous material. The instruction permit shall be class specific and shall contain an "I" restriction noting that the commercial driver is limited to Kentucky intrastate commerce.

(3) A commercial driver's instruction permit shall not be issued for a period to exceed six (6) months. Only one (1) renewal or reissuance may be granted within two (2) year period for the same class of vehicle. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle on the highways of Kentucky only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven and who occupies a seat beside the permit holder for the purpose of giving instruction in driving the commercial motor vehicle.

(4) A commercial driver's instruction permit shall contain, in addition to [~~any~~] other information ***required by*** [~~which~~] the cabinet [~~deems necessary~~], those requirements set forth in KRS 281A.170***. The commercial driver's instruction permit shall not contain the permit holder's Social Security number but*** [~~and~~] shall include a color photo of the permit holder.

Section 9. KRS 216.283 is amended to read as follows:

(1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the commission or its staff and shall not be subject to inspection under KRS 61.870 to 61.884:

(a) Any data, summary of data, correspondence, ***Social Security number,*** or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence; and

(b) Any correspondence or related notes from or to an employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence.

(2) Health care providers submitting required data to the commission shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the commission complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.

(3) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the commission shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public. The aggregate data shall be made available in both printed format and in a standard electronic format which is readable by commonly available software for personal computers. Single copies of the printed data shall be made available to individuals at no cost. The commission may impose a fee no greater than that necessary to cover its costs for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without

charge to the Legislative Research Commission.

(4) Identification of individual patients shall be in a nonidentifying numeric form and shall not include a patient's name or social security number. Any person who receives information identifying a patient through error or any other means shall return all copies of the information immediately.

(5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.

(6) Only designated commission staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.

(7) Any employee of the commission or member of the commission who violates the provisions of this section shall be fined not more than five hundred dollars ($500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed and disqualified from office or employment.

Section 10. KRS 133.047 is amended to read as follows:

(1) ***Except for the disclosure of a person's Social Security number,*** notwithstanding the provisions of KRS 61.870 to 61.884, when the Revenue Cabinet has completed action on the assessment of property in any county and has certified the assessment to the county clerk of that county, as provided for in KRS 133.180, the property tax roll or a copy of the property tax roll, shall be retained in the office of the property valuation administrator for maintenance as an open public record for five (5) years. The property tax roll shall be available for public inspection during the regular working hours of the office of the property valuation administrator as provided for in KRS 132.410(2).

(2) Any person inspecting a property tax roll shall do so in a manner not unduly interfering with the proper operation of the custodian's office.

(3) Personal property tax returns, accompanying documents, and assessment records, with the exception of the certified personal property tax roll, shall be considered confidential under the provisions of KRS 131.190.

(4) Real property tax returns and accompanying documents submitted by a taxpayer shall be considered confidential under the provisions of KRS 131.190. Other real property records in the office of the property valuation administrator shall be subject to the provisions of KRS 61.870 to KRS 61.884. However, notwithstanding the provisions of KRS 61.874 to 61.975 the Revenue Cabinet shall develop and provide to each property valuation administrator a reasonable fee schedule to be used in compensating for the cost of personnel time expended in providing information and assistance to persons seeking information to be used for commercial or business purposes. Any person seeking information on his own property, or any other person, including the press, seeking information directly related to property tax assessment, appeals, equalization, requests for refunds, or similar matters shall not be subject to fees for personnel time.

(5) The Revenue Cabinet shall provide advice, guidelines, and assistance to each property valuation administrator in implementing the provisions of KRS 61.965 to 61.975.

Section 11. KRS 519.060 is amended to read as follows:

(1) A person is guilty of tampering with public records when:

  (a) He knowingly makes a false entry in or falsely alters any public record; or

  (b) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes, or otherwise impairs the availability of any public records; or

  (c) Knowing he lacks the authority to retain it, he intentionally refuses to deliver up a public record in his possession upon proper request of a public servant lawfully entitled to receive such record for examination or other purposes***; or***

  (d) Knowingly releases a Social Security number in violation of Sections 1 to 10 of this Act.

(2) Tampering with public records is a Class D felony.

The Committee Title Amendment to **SB 171** is as follows:

On page 1, by amending the title to read as follows:

"An Act relating to the use of Social Security numbers."

The Committee on Banking and Insurance reported **HB 755**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Banking and Insurance reported **SB 287**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 287, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-020 is amended to read as follows:

(1) The insurance commissioner is the head of the Insurance department.

(2) The commissioner shall be appointed by the Governor ***with the consent of the Senate,*** for a term not to exceed four (4) years on the basis of his merit and fitness to perform the duties of the office as provided in KRS 12.040.

Section 2. KRS 304.2-150 is amended to read as follows:

(1) The commissioner shall carefully preserve in the department and in permanent form, a correct account of all his transactions and of all fees and moneys received by him by virtue of his office, together with all financial statements, examination reports, correspondence, filings, and documents duly received by the department. The commissioner shall hand the same over to his successor in office.

(2) The commissioner shall keep a suitable record of all insurer certificates of authority and of all licenses issued under this code, together with all applicable suspensions and revocations and of the causes thereof.

(3) Unless otherwise provided by law, records of the department shall be open to the extent provided by the Kentucky Open Records Act, KRS 61.872 to 61.884:

(a) The following records shall be open:

1. Rate and form filings and information filed in support thereof; [~~and~~]

2. Other records as provided by law; ***and***

3. All information filed by the department with the National Association of Insurance Commissioners, which that association makes available;

(b) The following records shall be closed:

1. All information received in confidence from the National Association of Insurance Commissioners, including, but not limited to, information from the insurance regulatory information system. However, records described in this paragraph may be used by the commissioner in enforcement prosecutions and proceedings for disciplinary action, and may be disclosed to other law enforcement authorities; and

2. Other records as provided by law; and

(c) When inspection of department records is denied, any person challenging the denial shall follow the procedures set forth in the Kentucky Open Records Act, KRS 61.872 to 61.884.

(4) After five (5) years, the commissioner may destroy unneeded or obsolete records and filings in the department.

(5) The department shall not charge a fee inconsistent with fees charged by other state agencies, for copies of records requested by the public pursuant to this section.

Section 3. KRS 304.2-210 is amended to read as follows:

(1) For the purpose of determining financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as reasonably necessary. He shall so examine each domestic insurer not less frequently than every ***three (3)*** [~~four (4)~~] years. Examination of a reciprocal insurer may include examination of its attorney-in-fact as to its transactions relating to the insurer. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States, except as the commissioner otherwise requires.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(3) In lieu of making his own examination, the commissioner may, in his discretion, accept a full report of the last recent examination of a foreign, or alien, insurer, certified to by the insurance supervisory official of another state.

(4) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business, and for the purpose thereof the commissioner may participate in joint examinations of insurers or be represented in an examination by an examiner of another state.

SECTION 4. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Department of Insurance the position of early warning analyst.

(2) The commissioner shall appoint a qualified person to serve as early warning analyst.

(3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business in the Commonwealth that are in a hazardous or potentially hazardous financial condition.

(4) The early warning analyst shall be part of the Financial Standards and Examination Division.

(5) The early warning analyst shall:

(a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;

(b) Seek information from other states' detection programs;

(c) Work with other Department of Insurance employees representing key regulatory areas of the department;

(d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:

1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;

2. An insurer files financial information which is false or misleading;

3. An insurer overstates its surplus by twenty-five percent (25%) or more;

4. An insurer fails to grant authorization to amend its financial statement when requested;

5. An insurer's financial ratios are outside of the acceptable range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;

6. A projection by the department of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;

7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;

8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;

9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;

10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;

11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are more than ten percent (10%) of an insurer's surplus;

12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;

13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;

14. An insurer has reinsurance agreements affecting twenty percent (20%) of more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;

15. An insurer's management does not have the experience, competence, or trust worthiness to operate the insurer in a safe and sound manner;

16. An insurer's management engages in unlawful transactions;

17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage loan;

18. An insurer fails to comply with the terms of an agreement with an affiliate;

19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;

20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;

21. An insurer violates KRS Chapter 304;

22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and

23. An insurer is in any condition that the commissioner finds is a hazard to policyholders, creditors, or the general public;

(e) Recommend regulatory action and provide status reports to the commissioner; and

(f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance biannually to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

Section 5. KRS 304.3-180 is amended to read as follows:

(1) A certificate of authority shall continue in force as long as the insurer is entitled thereto under this code, and until suspended or revoked by the commissioner or terminated at the insurer's request; subject, however, to continuance of the certificate by the insurer each year by:

(a) Payment on or before March 1 of the continuation fee provided in Subtitle 4;

(b) Due filing by the insurer of its annual statement for the next preceding calendar year as required by KRS 304.3-240; [~~and~~]

(c) Payment by the insurer of premium taxes with respect to the preceding calendar year*; and*

(d) Due filing by domestic companies of quarterly statements as approved by the National Association of Insurance Commissioners.

(2) If not so continued by the insurer, its certificate of authority shall expire at midnight on the June 30 next following *the* [~~such~~] failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in KRS 304.4-040. The commissioner shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(3) The commissioner may, in his discretion, upon the insurer's request made within three (3) months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration. Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(4) An insurer shall not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than four (4) consecutive years.

Section 6. KRS 304.3-240 is amended to read as follows:

(1) Each authorized insurer shall annually, before the first day of March, file with the commissioner a true statement of its financial condition, transactions, and affairs as of December 31 preceding. The statement shall be on forms *prescribed by the National Association of Insurance Commissioners and shall be completed according to the instructions of the National Association of Insurance Commissioners* [~~and shall contain information as required by this code and by the commissioner~~], and shall be verified by the oaths of at least two (2) of the insurer's principal officers. The annual statement of a reciprocal insurer shall be made and verified by its attorney-in-fact.

(2) The commissioner shall annually during November furnish each [~~such~~] insurer duplicate copies of annual statement forms as next required to be filed. The statement forms shall be in general form and context as approved by the National Association of Insurance Commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner.

(3) The annual statement of an alien insurer shall relate only to its assets, transactions, and affairs in the United States unless the commissioner requires otherwise. The statement shall be verified by the insurer's United States manager or by its officers duly authorized.

(4) The commissioner may suspend or revoke the authority of any insurer failing to file its annual *and quarterly* statement when due or failing so to file during any extension of time therefor which the commissioner, for good cause, may grant.

(5) Notwithstanding the provisions of this section or any other law of this Commonwealth, an authorized insurer may, subject to the requirements of regulations adopted by the commissioner, publish financial statements or information based on financial statements prepared on a basis which is in accordance with requirements of a competent authority and which differs from the basis of the statements which have been filed with the commissioner in compliance with this section. Such differing financial statements or information based on *the* [~~such~~] financial statements shall not be made the basis for the application of any provision of this chapter not relating solely to the publication of financial information unless *the* [~~such~~] provision specifically so requires.

Section 7. KRS 304.3-241 is amended to read as follows:

The annual statement *and quarterly statements* required by KRS 304.3-240 shall be completed in accordance with accounting practices and procedures which meet or exceed the accounting practices and procedures established by the National Association of Insurance Commissioners.

Section 8. KRS 304.32-090 is amended to read as follows:

(1) Corporations subject to the provisions of this subtitle doing business in this state on June 18, 1970, or which thereafter do business in this state, shall make and file annually with the commissioner, on or before the first day of March of each year, a statement under oath upon a form to be prescribed by the commissioner, stating the amount of all membership dues, or subscriber fees, collected in this state by the corporation during the year ending the last day of December next preceding; the amounts actually paid during *the* [~~such~~] year for hospital, medical-surgical, dental and other health services for the subscribers or members of the corporation, and the amounts placed in established reserves for cases

billed but not yet paid, unreported and unbilled cases, retroactive cost adjustments, and membership dues or fees paid in advance but not yet earned.

(2) The commissioner shall require that domestic companies subject to this subtitle file quarterly statements according to the form and instructions approved by the National Association of Insurance Commissioners.

Section 9. KRS 304.43-070 is amended to read as follows:

(1) Organizations subject to the provisions of KRS 304.43-010 to 304.43-130 shall make and file with the commissioner, on or before March 1 of each year, a statement under oath upon a form to be prescribed by the commissioner covering the preceding year, and shall include:

(a) A financial statement of the organization, including a balance sheet, receipts, and disbursements for the preceding year; and

(b) The number of persons enrolled during the year, the numbers of enrollees as of the end of the fiscal year, the number of enrollments terminated during the fiscal year, and [~~such~~] other information relating to the operation of the prepaid dental plan organization as may be prescribed by the commissioner in order to enable the commissioner to evaluate the performance of the prepaid dental plan organization.

(2) The commissioner ***shall*** [~~may~~] require, [~~in his discretion,~~] that [~~any or~~] all of the information provided to him on an annual basis pursuant to subsection (1) of this section be provided to him, by any prepaid dental plan organization, on a [~~monthly,~~] quarterly[~~, or semiannual~~] basis.

SECTION 10. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Loans that are more than ninety (90) days past due shall be reported in writing to the early warning analyst created in Section 4 of this Act.

(2) Loans in foreclosure shall be reported to the early warning analyst in writing when the foreclosure action is initiated.

SECTION 11. A NEW SECTION OF SUBTITLE 6 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A mortgage loan shall not be made or acquired by a domestic insurer unless an appraisal has been made by a competent appraiser for the purpose of the investment which meets the following requirements:

(a) The appraisal shall be made prior to the date that the insurer commits to make the investment;

(b) The appraisal shall be written and shall state an opinion of value as of a specific date, supported by presentation and analysis of relevant market material;

(c) The appraisal shall provide the current fair market value of the real estate, that is the value of the real estate in an arms-length sale as of the date of the appraisal; and

(d) The appraisal shall be reviewed and signed by a principal of the firm. The principal shall be a specific individual having appraisal experience with the property type, and shall be accountable for the conclusions contained in the report.

(2) Appraisers conducting appraisals pursuant to this section shall not be compensated, directly or indirectly, on the basis of the outcome of the appraisal performed and shall have direct reporting access to the chief investment officer of the insurer.

(3) The department may contract with qualified appraisers to conduct appraisals if an insurer fails to have appraisals done pursuant to this section. All costs for the services of an appraiser pursuant to this subsection shall be borne by the insurer.

(4) All appraisals shall be placed in the appropriate real estate mortgage loan file, and shall be subject to evaluation by the department.

(5) The department shall randomly select a number of appraisals from each domestic insurer with a mortgage loan portfolio and evaluate the quality of the appraisal. The evaluation shall be done annually and the number of appraisals reviewed shall be determined by the department.

Section 12. KRS 304.7-020 is amended to read as follows:

(1) Insurers shall hereafter invest in or lend their funds on the security of, and shall hold as invested assets, only eligible investments as prescribed in this subtitle.

(2) Any particular investment held by an insurer on July 14, 1992, which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to July ***12, 1994*** [~~14, 1992~~], shall be deemed to be an eligible investment.

(3) Except as stated in subsection (2) of this section and KRS 304.7-030(4), eligibility of an investment shall be determined as of the date of the making or acquisition, but an investment permitted under KRS 304.7-270 shall be considered an eligible investment under another section or sections of this subtitle from and after the date on which it meets the requirements of eligibility of the section or sections as if it were made or acquired on that date.

(4) Any investment limitation or diversification requirement based upon the amount of the insurer's assets or a particular fund shall relate to the assets or fund as shown by the insurer's annual statement as of the December 31 next preceding date of acquisition of the investment by the insurer, or as shown by a current applicable financial statement, resulting from merger with another insurer, bulk reinsurance, or change in capitalization.

Section 13. KRS 304.7-050 is amended to read as follows:

(1) Investments of an insurer transacting life or health insurance or both shall be subject to limitations set forth in the following sections of this subtitle identified for "life insurer."

(2) Investments of an insurer transacting other than life insurance shall be subject to limitations set forth in the following sections of this subtitle identified for "other than life insurer."

(3) [~~Except as otherwise provided in this subtitle,~~] An insurer shall not have at any one (1) time any combination of investments in or loans upon the security of the obligations, property, or securities of any one (1) person aggregating an amount exceeding ***the lesser of:***

(a) Ten percent (10%) of the insurer's assets***; or***

(b) An amount equal to the insurer's capital and surplus which exceeds one million two hundred fifty thousand dollars ($1,250,000).

Investments with any one (1) person exceeding this limit shall not be held under KRS 304.7-270. This restriction shall not apply [~~as~~] to general obligations issued, assumed, or guaranteed by the United States or by any state, or by Canada or by any province thereof, or include policy loans made under KRS 304.7-180.

Section 14. KRS 304.7-270 is amended to read as follows:

(1) An insurer may invest and have invested in loans other than loans to officers and directors prohibited under KRS 304.7-340 or in investments or excessive investments***, other than loans or investments prohibited by KRS 304.7-050(3),*** not qualifying or not permitted under this subtitle in aggregate amount not over ***the lesser of:***

(a) Ten percent (10%) of its assets***; or***

(b) The excess capital and surplus over one million two hundred and fifty thousand dollars ($1,250,000).

(2) Loans or investments held under this section shall not be subject to any percentage limitations set out in this subtitle.

Section 15. KRS 304.33-160 is amended to read as follows:

(1) Special deputy commissioner. The commissioner as rehabilitator ***shall*** [~~may~~] appoint one (1) or more special deputies, ***who are active or retired senior executives from a successful insurer, and*** who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the commissioner may employ such counsel, clerks, and assistants as deemed necessary. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the Department of Insurance. Any amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the Department of Insurance out of the first available money of the insurer.

(2) General power. The rehabilitator may take [~~such~~] action as he deems necessary or appropriate to reform and revitalize the insurer. He shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. He shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(3) Advice from experts. The rehabilitator may consult with and obtain formal or informal advice and aid of insurance experts.

(4) Pursuit of insurer's claims against insiders. If the rehabilitator finds that there has been criminal or tortious conduct or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, employee, or other person, he may pursue all appropriate legal remedies on behalf of the insurer.

(5) Reorganization plan. The rehabilitator may prepare a plan for the reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer. Upon application of the rehabilitator for approval of the plan, and after ***the*** [~~such~~] notice and hearing as the court prescribes, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. If it is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the equities of policyholders of the insurer, if all rights of shareholders are first extinguished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights upon policies, for such period and to such an extent as are necessary.

(6) Fraudulent transfers. The rehabilitator shall have the power to avoid fraudulent transfers under KRS 304.33-290 and 304.33-300.

SECTION 16. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The rehabilitator, before he files his final recommendation with the court shall:

(a) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance, no less than thirty (30) days prior to the filing on a date agreed to by the chairman, and disclose his recommendation to the committee; and

(b) Appear before the committee no more than two (2) weeks after he has disclosed his final recommendation, unless the chairman has designated a date beyond the two (2) week period, to hear the comments of the committee members.

(2) After the recommendation of the rehabilitator has been filed with the court, all confidentiality agreements entered into regarding the insurer in receivership shall be null and void.

(3) If any insurer is placed in receivership prior to or after the enactment of this section, and if, after a two (2) year period, the insurer's receivership status remains unchanged, the rehabilitator shall appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance to update the members of the committee regarding the insurer and to receive authorization to keep the insurer in receivership.

SECTION 17. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Subtitle 47 of this Act unless the context requires otherwise:

(1) "Insurer" means any person, entity, or organization including fraternal benefit societies as defined in Subtitle 29 of this chapter, nonprofit hospital, medical-surgical, dental, and health service corporation as defined in Subtitle 32 of this chapter, health maintenance organization as defined in Subtitle 38 of this chapter, prepaid dental plan organization as defined in Subtitle 43 of this chapter, or unauthorized insurer as defined in Subtitle 11 of this chapter subject to regulation by or registration with the Department of Insurance under this chapter.

(2) "Insurance policy" or "policy" means any individual or group policy, certificate, or contract of an insurer as defined in subsection (1) of this section affecting the rights of any Kentucky resident or bearing a reasonable relation to Kentucky regardless of whether delivered or issued for delivery in Kentucky.

(3) "Insured" means any person who is a named insured or beneficiary under a policy as defined in subsection (2) of this section or a person who is not a named insured or beneficiary under a policy due to the fraudulent action of another, but who in good faith believes himself to be an insured or beneficiary.

(4) "Law enforcement agency" means any federal, state, county, or consolidated police or law enforcement department and any prosecuting official of the federal, state, county, local, or consolidated government.

(5) "Statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or physician record or report, X-ray, test result, or other evidence of loss, injury, or expense.

SECTION 18. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he:

(a) Knowingly and with intent to defraud or deceive presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an unauthorized insurer, Board of Claims, or any agent thereof, any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;

(b) Knowingly and with intent to defraud or deceive presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an unauthorized insurer, Board of Claims, or any agent thereof, any written or oral statement as part of, or in support of, an application for an insurance policy, knowing that this statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;

(c) Assists, abets, solicits or conspires with another to prepare or make any written or oral statement that is intended to be presented to any insurer, person, entity, or organization in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the claim;

(d) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;

(e) Receives money for the purpose of purchasing insurance and converts the money to the person's own benefit;

(f) Issues fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, or insurance binders;

(g) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer; or

(h) Engages in unauthorized insurance, as defined in KRS 304.11-030.

(2) (a) Except as provided in paragraph (b) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to three hundred dollars ($300), and shall be punished by:

1. Imprisonment for not more than one (1) year;

2. A fine, per occurrence, of not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or

3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph;

(b) Where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of three hundred dollars ($300), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:

1. Imprisonment for not less than one (1) nor more than five (5) years;

2. A fine, per occurrence, of not more than ten thousand dollars ($10,000) per individual nor one hundred thousand dollars ($100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or

3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.

(c) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a) or (b) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss under the person's actions which resulted in the adjudication of guilt. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.

(3) Any insurer damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.

(4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

SECTION 19. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All applications shall contain a statement in a form approved by the Department of Insurance that clearly states in substance the following: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime."

(2) All claim forms shall contain a statement in a form approved by the Department of Insurance that clearly states in substance the following: "Any person who knowingly and with intent to defraud any insurance company or other person files a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime."

SECTION 20. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Department of Insurance an Insurance Fraud Unit.

(2) The commissioner shall appoint qualified persons to serve as special investigators for the Insurance Fraud Unit who shall have general police powers including the power to arrest, and they shall possess all of the common law and statutory powers, privileges and immunities of sheriffs, and their jurisdiction shall be coextensive with the state.

(3) The special investigator may:

(a) Administer oaths and affirmations;

(b) Order the attendance of witnesses or proffering of information and documentation;

(c) Collect evidence; and

(d) Make arrests for criminal violations established as a result of its investigations. The general laws applicable to arrests by sheriffs of the Commonwealth shall also be applicable to special investigators, who may:

1. Execute arrest warrants and search warrants for the criminal violations revealed as a result of their investigations;

2. Serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations; and

3. Arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws.

(4) The unit may implement its powers if, based upon its own inquiries or as a result of information received, it has reason to believe that a person has engaged in, is engaging in, or is about to engage in a fraudulent insurance act.

(5) If the information the unit seeks to obtain is located outside the state, the person so requested may make it available to the unit or its representative to examine at the place where it is located. The unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on the unit's behalf, and it may respond to similar requests from officials of other states.

(6) It shall be unlawful for any person to resist an arrest authorized by this subtitle or in any manner to interfere, either by abetting or assisting this resistance or otherwise interfering, with special investigators employed by the commissioner under this subtitle in the duties imposed upon them by law, and shall be punishable as provided in KRS 520.090.

SECTION 21. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any person, other than an insurer, agent, or other person licensed under KRS Chapter 304, or an employee thereof, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the Insurance Fraud Unit a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.

(2) The following individuals having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed shall send to the Insurance Fraud Unit a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or his employees or agents may require:

(a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;

(b) Any utilization review of benefits committee as defined in KRS 211.462 to 211.466;

(c) Any private medical review committee;

(d) Any insurer, agent, or other person licensed under KRS Chapter 304; and

(e) Any employee of the persons named in paragraphs (a) to (d) of this subsection.

(3) The Insurance Fraud Unit or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the unit, may require further investigation. The unit shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.

(4) The Insurance Fraud Unit shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the unit of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.

(5) Notwithstanding the provisions of subsections (1) to (4) of this section, when an insurer or an insured knows or has reasonable grounds to believe that a person committed a fraudulent insurance act which the insurer reasonably believes not to have been reported to a law enforcement agency in this state, then, for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf or the insured may notify a law enforcement agency of their knowledge or reasonable belief and provide information relevant to the fraudulent insurance act, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to

the investigation of the claim, including statements of any person, proofs of loss, and notice of loss.

(6) If the information referred to in subsection (5) of this section is specifically requested by a law enforcement agency or prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.

(7) In the absence of malice, fraud or bad faith, no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, their respective employees, or an insured shall be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection.

SECTION 22. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In the absence of malice, fraud, or bad faith, a person shall not be subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports or furnishing other information required by KRS Chapter 304 or requested by the Insurance Fraud Unit or its authorized representative. No civil cause of action of any nature shall arise against the person:

  (a) For any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents, or employees;

  (b) For any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this subtitle; or

  (c) For any information furnished in reports to the commissioner or the National Association of Insurance Commissioners.

(2) The commissioner or any employee or agent of the Department of Insurance shall not be subject to civil liability for libel, slander, or any other relevant tort. No civil cause of action shall exist against these persons by virtue of the execution of official activities or duties of the commissioner or the Insurance Fraud Unit or by virtue of the publication of any report or bulletin related to the official activities or duties of the commissioner.

(3) This subtitle shall not abrogate or modify any common law or statutory privilege or immunity enjoyed by any person.

(4) The papers, documents, reports, or evidence relative to the subject of an investigation under this subtitle shall not be subject to public inspection for so long as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public interest. Further, the papers, documents, reports, or evidence relative to the investigations shall not be subject to subpoena until opened for public inspection by the commissioner, unless the commissioner consents, or until, after notice to the commissioner and a hearing, a court of competent jurisdiction determines the commissioner would not be unnecessarily hindered by a subpoena. The commissioner or his employees or agents shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to pending investigations of fraudulent insurance acts.

SECTION 23. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All costs of administration and operation of the Insurance Fraud Unit shall be borne by the Department of Insurance. Any money, or other property that is awarded to the Insurance Fraud Unit as costs of investigation, or as a fine shall be credited to the Department of Insurance and the money shall be used to help finance the Insurance Fraud Unit.

SECTION 24. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer admitted to do business in the Commonwealth shall maintain a unit to investigate possible fraudulent claims by insureds or by persons making claims for services or repairs against policies held by insureds.

(2) Insurers may maintain the unit required by subsection (1) of this section, using its employees or by contracting with others for that purpose.

(3) Insurers shall establish the unit required by this section no later than July 15, 1995.

(4) The unit may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense.

Section 25. The change contained in Section 1 of this Act shall apply to appointments made on and after the effective date of this Act.

The Committee Substitute to **SB 287** is as follows:

SB 287, AN ACT relating to the Department of Insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-020 is amended to read as follows:

(1) The insurance commissioner is the head of the Insurance department.

(2) The commissioner shall be appointed by the Governor ***with the consent of the Senate,*** for a term not to exceed four (4) years on the basis of his merit and fitness to perform the duties of the office as provided in KRS 12.040.

Section 2. KRS 304.2-150 is amended to read as follows:

(1) The commissioner shall carefully preserve in the department and in permanent form, a correct account of all his transactions and of all fees and moneys received by him by virtue of his office, together with all financial statements, examination reports, correspondence, filings, and documents duly received by the department. The commissioner shall hand the same over to his successor in office.

(2) The commissioner shall keep a suitable record of all insurer certificates of authority and of all licenses issued under this code, together with all applicable suspensions and revocations and of the causes thereof.

(3) Unless otherwise provided by law, records of the department shall be open to the extent provided by the Kentucky Open Records Act, KRS 61.872 to 61.884:

(a) The following records shall be open:

1. Rate and form filings and information filed in support thereof; [~~and~~]

2. Other records as provided by law; ***and***

3. All information filed by the department with the National Association of Insurance Commissioners, which that association makes available;

(b) The following records shall be closed:

1. All information received in confidence from the National Association of Insurance Commissioners, including, but not limited to, information from the insurance regulatory information system. However, records described in this paragraph may be used by the commissioner in enforcement prosecutions and proceedings for disciplinary action, and may be disclosed to other law enforcement authorities; and

2. Other records as provided by law; and

(c) When inspection of department records is denied, any person challenging the denial shall follow the procedures set forth in the Kentucky Open Records Act, KRS 61.872 to 61.884.

(4) After five (5) years, the commissioner may destroy unneeded or obsolete records and filings in the department.

(5) The department shall not charge a fee inconsistent with fees charged by other state agencies, for copies of records requested by the public pursuant to this section.

Section 3. KRS 304.2-210 is amended to read as follows:

(1) For the purpose of determining financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as reasonably necessary. He shall so examine each domestic insurer not less frequently than every ***three (3)*** [~~four (4)~~] years. Examination of a reciprocal insurer may include examination of its attorney-in-fact as to its transactions relating to the insurer. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States, except as the commissioner otherwise requires.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(3) In lieu of making his own examination, the commissioner may, in his discretion, accept a full report of the last recent examination of a foreign, or alien, insurer, certified to by the insurance supervisory official of another state.

(4) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business, and for the purpose thereof the commissioner may participate in joint examinations of insurers or be represented in an examination by an examiner of another state.

SECTION 4. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Department of Insurance the position of early warning analyst.

(2) The commissioner shall appoint a qualified person to serve as early warning analyst.

(3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business

in the Commonwealth that are in a hazardous or potentially hazardous financial condition.

(4) The early warning analyst shall be part of the Financial Standards and Examination Division.

(5) The early warning analyst shall:

- *(a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;*
- *(b) Seek information from other states' detection programs;*
- *(c) Work with other Department of Insurance employees representing key regulatory areas of the department;*
- *(d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:*
  - *1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;*
  - *2. An insurer files financial information which is false or misleading;*
  - *3. An insurer overstates its surplus by twenty-five percent (25%) or more;*
  - *4. An insurer fails to grant authorization to amend its financial statement when requested;*
  - *5. An insurer's financial ratios are outside of the acceptable range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;*
  - *6. A projection by the department of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;*
  - *7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;*
  - *8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;*
  - *9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;*
  - *10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;*
  - *11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are more than ten percent (10%) of an insurer's surplus;*
  - *12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;*
  - *13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;*
  - *14. An insurer has reinsurance agreements affecting twenty percent (20%) of more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;*
  - *15. An insurer's management does not have the experience, competence, or trust worthiness to operate the insurer in a safe and sound manner;*
  - *16. An insurer's management engages in unlawful transactions;*
  - *17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage loan;*
  - *18. An insurer fails to comply with the terms of an agreement with an affiliate;*
  - *19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;*
  - *20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;*
  - *21. An insurer violates KRS Chapter 304;*
  - *22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and*
  - *23. An insurer is in any condition that the commissioner finds is a hazard to policyholders, creditors, or the general public;*

(e) Recommend regulatory action and provide status reports to the commissioner; and

(f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance biannually to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

Section 5. KRS 304.3-180 is amended to read as follows:

(1) A certificate of authority shall continue in force as long as the insurer is entitled thereto under this code, and until suspended or revoked by the commissioner or terminated at the insurer's request; subject, however, to continuance of the certificate by the insurer each year by:

(a) Payment on or before March 1 of the continuation fee provided in Subtitle 4;

(b) Due filing by the insurer of its annual statement for the next preceding calendar year as required by KRS 304.3-240; [~~and~~]

(c) Payment by the insurer of premium taxes with respect to the preceding calendar year***; and***

(d) Due filing by domestic companies of quarterly statements as approved by the National Association of Insurance Commissioners.

(2) If not so continued by the insurer, its certificate of authority shall expire at midnight on the June 30 next following ***the*** [~~such~~] failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in KRS 304.4-040. The commissioner shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(3) The commissioner may, in his discretion, upon the insurer's request made within three (3) months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration. Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(4) An insurer shall not use the same accountant or partner of an accounting firm responsible for preparing the report required by subsection (1) for more than four (4) consecutive years.

Section 6. KRS 304.3-240 is amended to read as follows:

(1) Each authorized insurer shall annually, before the first day of March, file with the commissioner a true statement of its financial condition, transactions, and affairs as of December 31 preceding. The statement shall be on forms ***prescribed by the National Association of Insurance Commissioners and shall be completed according to the instructions of the National Association of Insurance Commissioners*** [~~and shall contain information as required by this code and by the commissioner~~], and shall be verified by the oaths of at least two (2) of the insurer's principal officers. The annual statement of a reciprocal insurer shall be made and verified by its attorney-in-fact.

(2) The commissioner shall annually during November furnish each [~~such~~] insurer duplicate copies of annual statement forms as next required to be filed. The statement forms shall be in general form and context as approved by the National Association of Insurance Commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner.

(3) The annual statement of an alien insurer shall relate only to its assets, transactions, and affairs in the United States unless the commissioner requires otherwise. The statement shall be verified by the insurer's United States manager or by its officers duly authorized.

(4) The commissioner may suspend or revoke the authority of any insurer failing to file its annual ***and quarterly*** statement when due or failing so to file during any extension of time therefor which the commissioner, for good cause, may grant.

(5) Notwithstanding the provisions of this section or any other law of this Commonwealth, an authorized insurer may, subject to the requirements of regulations adopted by the commissioner, publish financial statements or information based on financial statements prepared on a basis which is in accordance with requirements of a competent authority and which differs from the basis of the statements which have been filed with the commissioner in compliance with this section. Such differing financial statements or information based on ***the*** [~~such~~] financial statements shall not be made the basis for the application of any provision of this chapter not relating solely to the publication of financial information unless ***the*** [~~such~~] provision specifically so requires.

Section 7. KRS 304.3-241 is amended to read as follows:

The annual statement ***and quarterly statements*** required by KRS 304.3-240 shall be completed in accordance with accounting practices and procedures which meet or exceed the accounting practices and procedures established by the National Association of Insurance Commissioners.

Section 8. KRS 304.32-090 is amended to read as follows:

(1) Corporations subject to the provisions of this subtitle doing business in this state on June 18, 1970, or which thereafter do business in this state, shall make and file annually with the commissioner, on or before the first day of March of each year, a statement under oath upon a form to be prescribed by the commissioner, stating the amount of all membership dues, or subscriber fees, collected in this state by the corporation during the year ending the last day of December next preceding; the amounts actually paid during ***the*** [~~such~~] year for hospital, medical-surgical, dental and other health services for the subscribers or members of the corporation, and the amounts placed in established reserves for cases billed but not yet paid, unreported and unbilled cases, retroactive cost adjustments, and membership dues or fees paid in advance but not yet earned.

(2) The commissioner shall require that domestic companies subject to this subtitle file quarterly statements according to the form and instructions approved by the National Association of Insurance Commissioners.

Section 9. KRS 304.43-070 is amended to read as follows:

(1) Organizations subject to the provisions of KRS 304.43-010 to 304.43-130 shall make and file with the commissioner, on or before March 1 of each year, a statement under oath upon a form to be prescribed by the commissioner covering the preceding year, and shall include:

  (a) A financial statement of the organization, including a balance sheet, receipts, and disbursements for the preceding year; and

  (b) The number of persons enrolled during the year, the numbers of enrollees as of the end of the fiscal year, the number of enrollments terminated during the fiscal year, and [~~such~~] other information relating to the operation of the prepaid dental plan organization as may be prescribed by the commissioner in order to enable the commissioner to evaluate the performance of the prepaid dental plan organization.

(2) The commissioner ***shall*** [~~may~~] require, [~~in his discretion,~~] that [~~any or~~] all of the information provided to him on an annual basis pursuant to subsection (1) of this section be provided to him, by any prepaid dental plan organization, on a [~~monthly,~~] quarterly[~~, or semiannual~~] basis.

SECTION 10. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Loans that are more than ninety (90) days past due shall be reported in writing by a domestic insurer to the early warning analyst created in Section 4 of this Act.

(2) Loans in foreclosure shall be reported to the early warning analyst in writing by a domestic insurer when the foreclosure action is initiated.

SECTION 11. A NEW SECTION OF SUBTITLE 6 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A mortgage loan shall not be made or acquired by a domestic insurer unless an appraisal has been made by a competent appraiser for the purpose of the investment which meets the following requirements:

  (a) The appraisal shall be made prior to the date that the insurer commits to make the investment;

  (b) The appraisal shall be written and shall state an opinion of value as of a specific date, supported by presentation and analysis of relevant market material;

  (c) The appraisal shall provide the current fair market value of the real estate, that is the value of the real estate in an arms-length sale as of the date of the appraisal; and

  (d) The appraisal shall be reviewed and signed by a principal of the firm. The principal shall be a specific individual having appraisal experience with the property type, and shall be accountable for the conclusions contained in the report.

(2) Appraisers conducting appraisals pursuant to this section shall not be compensated, directly or indirectly, on the basis of the outcome of the appraisal performed and shall have direct reporting access to the chief investment officer of the insurer.

(3) The department may contract with qualified appraisers to conduct appraisals if an insurer fails to have appraisals done pursuant to this section. All costs for the services of an appraiser pursuant to this subsection shall be borne by the insurer.

(4) All appraisals shall be placed in the appropriate real estate mortgage loan file, and shall be subject to evaluation by the department.

(5) The department shall randomly select a number of appraisals from each domestic insurer with a mortgage loan portfolio and evaluate the quality of the appraisal. The evaluation shall be done annually and the number of appraisals reviewed shall be determined by the department.

Section 12. KRS 304.7-020 is amended to read as follows:

(1) Insurers shall hereafter invest in or lend their funds on the security of, and shall hold as invested assets, only eligible investments as prescribed in this subtitle.

(2) Any particular investment held by an insurer on July ***12, 1994*** [~~14, 1992~~], which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to July ***12, 1994*** [~~14, 1992~~], shall be deemed to be an eligible investment.

(3) Except as stated in subsection (2) of this section and KRS 304.7-030(4), eligibility of an investment shall be determined as of the date of the making or acquisition, but an investment permitted under KRS 304.7-270 shall be considered an eligible investment under another section or sections of this subtitle from and after the date on which it meets the requirements of eligibility of the section or sections as if it were made or acquired on that date.

(4) Any investment limitation or diversification requirement based upon the amount of the insurer's assets or a particular fund shall relate to the assets or fund as shown by the insurer's annual statement as of the December 31 next preceding date of acquisition of the investment by the insurer, or as shown by a current applicable financial statement, resulting from merger with another insurer, bulk reinsurance, or change in capitalization.

Section 13. KRS 304.7-050 is amended to read as follows:

(1) Investments of an insurer transacting life or health insurance or both shall be subject to limitations set forth in the following sections of this subtitle identified for "life insurer."

(2) Investments of an insurer transacting other than life insurance shall be subject to limitations set forth in the following sections of this subtitle identified for "other than life insurer."

(3) ~~[Except as otherwise provided in this subtitle,]~~ An insurer shall not have at any one (1) time any combination of investments in or loans upon the security of the obligations, property, or securities of any one (1) person aggregating an amount exceeding ***the lesser of:***

(a) Ten percent (10%) of the insurer's assets***; or***

(b) An amount equal to the insurer's capital and surplus which exceeds one million two hundred fifty thousand dollars ($1,250,000).

Investments with any one (1) person exceeding this limit shall not be held under KRS 304.7-270. This restriction shall not apply ~~[as]~~ to general obligations issued, assumed, or guaranteed by the United States or by any state, or by Canada or by any province thereof, or include policy loans made under KRS 304.7-180.

Section 14. KRS 304.7-270 is amended to read as follows:

(1) An insurer may invest and have invested in loans other than loans to officers and directors prohibited under KRS 304.7-340 or in investments or excessive investments***, other than loans or investments prohibited by KRS 304.7-050(3),*** not qualifying or not permitted under this subtitle in aggregate amount not over ***the lesser of:***

(a) Ten percent (10%) of its assets***; or***

(b) The excess capital and surplus over one million two hundred and fifty thousand dollars ($1,250,000).

(2) Loans or investments held under this section shall not be subject to any percentage limitations set out in this subtitle.

Section 15. KRS 304.33-160 is amended to read as follows:

(1) Special deputy commissioner. The commissioner as rehabilitator ***shall*** ~~[may]~~ appoint one (1) or more special deputies, ***who are active or retired senior executives from a successful insurer, and*** who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the commissioner may employ such counsel, clerks, and assistants as deemed necessary. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the Department of Insurance. Any amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the Department of Insurance out of the first available money of the insurer.

(2) General power. The rehabilitator may take ~~[such]~~ action as he deems necessary or appropriate to reform and revitalize the insurer. He shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. He shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

(3) Advice from experts. The rehabilitator may consult with and obtain formal or informal advice and aid of insurance experts.

(4) Pursuit of insurer's claims against insiders. If the rehabilitator finds that there has been criminal or tortious conduct or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, employee, or other person, he may pursue all appropriate legal remedies on behalf of the insurer.

(5) Reorganization plan. The rehabilitator may prepare a plan for the reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer. Upon application of the rehabilitator for approval of the plan, and after ***the*** ~~[such]~~ notice and hearing as the court prescribes, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. If it is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the equities of policyholders of the insurer, if all rights of shareholders are first extinguished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights upon policies, for such period and to such an extent as are necessary.

(6) Fraudulent transfers. The rehabilitator shall have the power to avoid fraudulent transfers under KRS 304.33-290 and 304.33-300.

SECTION 16. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The rehabilitator shall appear before the committee no more than two (2) weeks after he has disclosed his final recommendation, unless the chairman has designated a date beyond the two (2) week period, to disclose his recommendation to the committee and to hear the comments of the committee members.

(2) After the recommendation of the rehabilitator has been filed with the court, all confidentiality agreements entered into regarding the insurer in receivership shall be null and void.

(3) If any insurer is placed in receivership prior to or after the enactment of this section, and if, after a two (2) year period, the insurer's receivership status remains unchanged, the rehabilitator shall appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance to update the members of the committee regarding the insurer.

SECTION 17. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Subtitle 47 of this Act unless the context requires otherwise:

(1) "Insurer" means any person, entity, or organization including fraternal benefit societies as defined in Subtitle 29 of this chapter, nonprofit hospital, medical-surgical, dental, and health service corporation as defined in Subtitle 32 of this chapter, health maintenance organization as defined in Subtitle 38 of this chapter, prepaid dental plan organization as defined in Subtitle 43 of this chapter, or unauthorized insurer as defined in Subtitle 11 of this chapter subject to regulation by or registration with the Department of Insurance under this chapter.

(2) "Insurance policy" or "policy" means any individual or group policy, certificate, or contract of an insurer as defined in subsection (1) of this section affecting the rights of any Kentucky resident or bearing a reasonable relation to Kentucky regardless of whether delivered or issued for delivery in Kentucky.

(3) "Insured" means any person who is a named insured or beneficiary under a policy as defined in subsection (2) of this section or a person who is not a named insured or beneficiary under a policy due to the fraudulent action of another, but who in good faith believes himself to be an insured or beneficiary.

(4) "Law enforcement agency" means any federal, state, county, or consolidated police or law enforcement department and any prosecuting official of the federal, state, county, local, or consolidated government.

(5) "Statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or physician record or report, X-ray, test result, or other evidence of loss, injury, or expense.

SECTION 18. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he:

(a) Knowingly and with intent to defraud or deceive presents, causes to be presented or prepares with knowledge or belief that it will be presented to an insurer, Board of Claims, or any agent thereof, any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;

(b) Knowingly and with intent to defraud or deceive presents, causes to be presented or prepares with knowledge or belief that it will be presented to an insurer, Board of Claims, or any agent thereof, any written or oral statement as part of, or in support of, an application for an insurance policy, knowing that this statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;

(c) Assists, abets, solicits or conspires with another to prepare or make any written or oral statement that is intended to be presented to any insurer, person, entity, or organization in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the claim;

(d) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;

(e) Receives money for the purpose of purchasing insurance and converts the money to the person's own benefit;

(f) Issues fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, or insurance binders;

(g) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in

any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer; or

(h) Engages in unauthorized insurance, as defined in KRS 304.11-030.

(2) (a) Except as provided in paragraph (b) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to three hundred dollars ($300), and shall be punished by:

1. Imprisonment for not more than one (1) year;

2. A fine, per occurrence, of not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or

3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph;

(b) Where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of three hundred dollars ($300), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:

1. Imprisonment for not less than one (1) nor more than five (5) years;

2. A fine, per occurrence, of not more than ten thousand dollars ($10,000) per individual nor one hundred thousand dollars ($100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or

3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.

(c) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a) or (b) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss under the person's actions which resulted in the adjudication of guilt. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.

(3) Any insurer damaged as a result of a violation of any provision of this section when there has been a criminal adjudication of guilt shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.

(4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

SECTION 19. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All applications shall contain a statement in a form approved by the Department of Insurance that clearly states in substance the following: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime."

(2) All claim forms shall contain a statement in a form approved by the Department of Insurance that clearly states in substance the following: "Any person who knowingly and with intent to defraud any insurance company or other person files a statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime."

SECTION 20. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Department of Insurance an Insurance Fraud Unit.

(2) The commissioner shall appoint qualified persons to serve as special investigators for the Insurance Fraud Unit who shall have general police powers including the power to arrest, and they shall possess all of the common law and statutory powers, privileges and immunities of sheriffs, and their jurisdiction shall be coextensive with the state.

(3) The special investigator may:

(a) Administer oaths and affirmations;

(b) Order the attendance of witnesses or proffering of information and documentation;

(c) Collect evidence; and

(d) Make arrests for criminal violations established as a result of its investigations. The general laws applicable

to arrests by sheriffs of the Commonwealth shall also be applicable to special investigators, who may:

1. Execute arrest warrants and search warrants for the criminal violations revealed as a result of their investigations;

2. Serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations; and

3. Arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws.

(4) The unit may implement its powers if, based upon its own inquiries or as a result of information received, it has reason to believe that a person has engaged in, is engaging in, or is about to engage in a fraudulent insurance act.

(5) If the information the unit seeks to obtain is located outside the state, the person so requested may make it available to the unit or its representative to examine at the place where it is located. The unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on the unit's behalf, and it may respond to similar requests from officials of other states.

(6) It shall be unlawful for any person to resist an arrest authorized by this subtitle or in any manner to interfere, either by abetting or assisting this resistance or otherwise interfering, with special investigators employed by the commissioner under this subtitle in the duties imposed upon them by law, and shall be punishable as provided in KRS 520.090.

SECTION 21. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any person, other than an insurer, agent, or other person licensed under KRS Chapter 304, or an employee thereof, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the Insurance Fraud Unit a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.

(2) The following individuals having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed shall send to the Insurance Fraud Unit a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or his employees or agents may require:

(a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;

(b) Any utilization review of benefits committee as defined in KRS 211.462 to 211.466;

(c) Any private medical review committee;

(d) Any insurer, agent, or other person licensed under KRS Chapter 304; and

(e) Any employee of the persons named in paragraphs (a) to (d) of this subsection.

(3) The Insurance Fraud Unit or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the unit, may require further investigation. The unit shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.

(4) The Insurance Fraud Unit shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the unit of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.

(5) Notwithstanding the provisions of subsections (1) to (4) of this section, when an insurer or an insured knows or has reasonable grounds to believe that a person committed a fraudulent insurance act which the insurer reasonably believes not to have been reported to a law enforcement agency in this state, then, for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf or the insured may notify a law enforcement agency of their knowledge or reasonable belief and provide information relevant to the fraudulent insurance act, including, but not limited to, insurance policy information including the application for insurance,

policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including statements of any person, proofs of loss, and notice of loss.

(6) If the information referred to in subsection (5) of this section is specifically requested by a law enforcement agency or prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.

(7) In the absence of malice, fraud, or gross negligence, no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, their respective employees, or an insured shall be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection.

SECTION 22. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In the absence of malice, fraud, or gross negligence, a person shall not be subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports or furnishing other information required by KRS Chapter 304 or requested by the Insurance Fraud Unit or its authorized representative. No civil cause of action of any nature shall arise against the person:

- ***(a) For any information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials, their agents, or employees;***
- ***(b) For any information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this subtitle; or***
- ***(c) For any information furnished in reports to the commissioner or the National Association of Insurance Commissioners.***

(2) The commissioner or any employee or agent of the Department of Insurance shall not be subject to civil liability for libel, slander, or any other relevant tort. No civil cause of action shall exist against these persons by virtue of the execution of official activities or duties of the commissioner or the Insurance Fraud Unit or by virtue of the publication of any report or bulletin related to the official activities or duties of the commissioner.

(3) This subtitle shall not abrogate or modify any common law or statutory privilege or immunity enjoyed by any person.

(4) The papers, documents, reports, or evidence relative to the subject of an investigation under this subtitle shall not be subject to public inspection for so long as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public interest. Further, the papers, documents, reports, or evidence relative to the investigations shall not be subject to subpoena until opened for public inspection by the commissioner, unless the commissioner consents, or until, after notice to the commissioner and a hearing, a court of competent jurisdiction determines the commissioner would not be unnecessarily hindered by a subpoena. The commissioner or his employees or agents shall not be subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to pending investigations of fraudulent insurance acts.

SECTION 23. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All costs of administration and operation of the Insurance Fraud Unit shall be borne by the Department of Insurance. Any money, or other property that is awarded to the Insurance Fraud Unit as costs of investigation, or as a fine shall be credited to the Department of Insurance and the money shall be used to help finance the Insurance Fraud Unit.

SECTION 24. A NEW SECTION OF SUBTITLE 47 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer admitted to do business in the Commonwealth shall maintain a unit to investigate possible fraudulent claims by insureds or by persons making claims for services or repairs against policies held by insureds.

(2) Insurers may maintain the unit required by subsection (1) of this section, using its employees or by contracting with others for that purpose.

(3) Insurers shall establish the unit required by this section no later than July 15, 1995.

(4) The unit may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense.

Section 25. The change contained in Section 1 of this Act shall apply to appointments made on and after the effective date of this Act.

The Committee on Counties and Special Districts reported **SB 316** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 316, AN ACT relating to smoking policy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

A policy for smoking in governmental office buildings or workplaces may be adopted by state, county, municipal, special district, or urban-county governments.

(1) Any policy relating to smoking in state office buildings or workplaces shall:

- ***(a) Be by executive order of the Governor or action of the General Assembly;***
- ***(b) Require the governmental authority to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and***
- ***(c) Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority.***

(2) Any policy relating to smoking in governmental office buildings or workplaces of counties, municipalities, special districts, or urban-county governments shall:

- ***(a) Be adopted by the legislative body of the government;***
- ***(b) Be in writing;***
- ***(c) Require the government authority to provide accessible indoor smoking areas in any buildings where smoking is otherwise restricted; and***
- ***(d) Favor allowing smoking in open public areas where ventilation and air exchange are adequate and there are no restrictions otherwise placed on the area by the state fire marshal or other similar authority.***

The Committee on Transportation reported **SB 351** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 351, AN ACT relating to motor vehicle accidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. ***All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties. A summary of the report shall be made available to a news-gathering organization that requests documents related to the***

accident.

The Committee on Economic Development reported **HR 97, SB 195,** with Committee Amendment attached thereto; **SJR 68,** with Committee Amendment attached thereto, and **SCR 86** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 97, A RESOLUTION recommending the designation of communities in greater Louisville, Kentucky as a Federal Urban Empowerment Zone and Enterprise Community.

WHEREAS, the Federal government has recently promulgated an interim rule for the Federal Empowerment Zone and Enterprise Community Program and published guidelines pursuant thereto, requiring applications to be submitted by June 30, 1994, for Fiscal Year 1994; and

WHEREAS, the purpose of the Federal Urban Empowerment Zone and Enterprise Community Program is to provide for local communities and areas to undertake urban development in the most chronically distressed urban communities in the nation; and

WHEREAS, there are Louisville, Kentucky, innercity areas in which neighborhoods suffer from pervasive poverty, high unemployment, and chronic distress due to lack of adequate housing, health, and safety; and

WHEREAS, the state and local governments or state chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Housing and Urban Development as a Federal Empowerment Zone or Enterprise Community; and

WHEREAS, local leaders are in the process of identifying the boundaries of the communities and areas to be nominated, and partnerships with shared communities and common issues are encouraged to make application;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives commends the greater Louisville, Kentucky, communities for their efforts to provide new economic opportunities and sustainable economic development in innercity neighborhoods, where chronic poverty and unemployment remain a serious problem to economic growth.

Section 2. The House of Representatives urges the greater Louisville, Kentucky, communities to continue developing a strategic plan, and to submit required eligibility forms and certifications for Federal Empowerment Zone and Enterprise Community Program application in support and encouragement of greater economic opportunities and sustainable economic development.

Section 3. The House of Representatives strongly urges the United States Department of Housing and Urban Development to designate selected Louisville, Kentucky, communities as a Federal Empowerment Zone, pursuant to the Federal Empowerment Zone and Enterprise Community Program.

Section 4. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the chief executive officers in local governments, excluding school and special districts, within the greater Louisville community.

SB 195, AN ACT relating to workforce training for the encouragement of economic competitiveness, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) The economic future of the Commonwealth and the prosperity of its citizens depend on the ability of Kentucky businesses to compete effectively in the world economy;

(2) A well-educated and highly trained workforce provides businesses in the Commonwealth with the competitive edge critical for their success; and

(3) Too many adult Kentuckians are not full participants in the labor pool because they lack a high school diploma, its equivalent, or the workplace knowledge necessary to assure self-sufficiency for themselves and their families.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context indicates otherwise:

(1) "Adult education" means literacy, adult basic, adult secondary, and GED services and instruction below the college level, pursuant to the National Literacy Act, Public Law 102-73, for adults who are not required to be enrolled in school:

(a) Are not enrolled in secondary school nor have a certificate of graduation from a school providing secondary education; or

(b) Have not achieved an equivalent level of education; or

(c) Lack sufficient mastery of basic educational skills to function effectively in society; or

(d) Are unable to speak, read, or write the English language with sufficient proficiency to get or retain employment commensurate with their real abilities;

(2) "GED" means General Educational Development; and

(3) "Literacy" means an individual's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals and develop one's knowledge and potential.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Workforce Development Cabinet shall administer an adult education learning system in regions of the state. The adult education learning system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites including adult educational institutions, vocational and technical schools, University of Kentucky community colleges, regional universities, and adult and family learning centers, adult correctional facilities and other institutions.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support and partnerships to administer the adult education learning system shall include: the Adult Education Act as amended by the National Literacy Act; Kentucky Education Reform Act funded family resource centers; Job Training Partnership Act; Kentucky Bluegrass State Skills Corporation, Job Opportunities and Basic Skills program; adult technical education; University of Kentucky community college system; Parent and Child Education programs; student scholarship and grants; and other general, agency, local, federal and private funds.

(2) Services included as part of the adult education learning system shall include, but not be limited to:

(a) Functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites;

(b) Literacy and adult basic education which includes learning for those with academic educational skills below the ninth grade level;

(c) Adult secondary education that includes learning above the ninth grade level including GED preparation and the external diploma program, that is a competency-based assessment system which credentials mature adults who have acquired high school level skills through life experiences;

(d) Family literacy programs, that have a goal of intergenerational transfer of cognitive skills, support of children's education, participation in Kentucky Education Reform Act and breaking the poverty cycle, by offering basic skills and competencies with parenting, life skills and parent-child interactive activities; and

(e) English as a second language programs for adults who have limited English proficiency.

(3) (a) The Department of Adult Education and Literacy within the Workforce Development Cabinet shall establish regional adult education and workplace essential skills advisory committees, representing adult basic education and literacy practitioners, state vocational technical and University of Kentucky community college educators, employment and career advisors, business and industry participants, employees, students, and organized labor.

(b) The adult education and workplace essential skills advisory committees shall meet at least twice a year to:

1. Advise the Department of Adult Education and Literacy on the regional training services and needs in the area of adult education and functionally-contexted workplace essential skills;

2. Report the number and location of referral and access points that have identified an adult population who is or could benefit from service and has an active interest in participation;

3. Report the number and location of entrance points that have identified an adult population who has been referred for service; and

4. Report the number of adults served and the number completing programs, method of payment for services, outcomes of service provision, and career and employment change following program completion.

(4) In administering an adult education system, the Workforce Development Cabinet shall:

(a) Establish regions for purpose of implementing adult educational services, supervising local programs, and

collecting student, program, payment, and instructor data;

(b) Make provision for quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including GED preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(c) Develop student assessments in coordination with other educational and employment entities, allowing assessments to be shared when necessary with appropriate personnel for accessing students additional educational programs, taking into consideration student confidentiality;

(d) Establish professional credentials for instructors, and make provision for the development of those providers who have not attained the established credentials;

(e) Develop administrative regulations for consideration by the Workforce Development Cabinet and the State Board for Adult and Technical Education, including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local and private resources;

(f) Require and monitor compliance with Workforce Development Cabinet administrative regulations, policies; and

(g) Develop and implement performance measures and benchmarks.

SECTION 4. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Any Cabinet for Economic Development program or initiative to support flexible networks shall include workforce training as an eligible flexible networks activity.

Section 5. Effective July 1, 1994, the federal Job Training Partnership Act program and all personnel funds, equipment, and property related to this program shall transfer from the Cabinet for Human Resources to the Workforce Development Cabinet.

Section 6. Whereas the change in program administration effectuated by Section 5 of this Act should occur at the beginning of a fiscal year in order to better promote governmental efficiency, an emergency is declared to exist, and Section 5 of this Act shall become effective July 1, 1994, with the remainder of the Act having the normal effective date of legislation enacted during the 1994 Regular Session of the Kentucky General Assembly.

The Committee Amendment No. 1 to **SB 195** is as follows:

On page 2, line 21, after "***system***" by deleting "***shall***" and by substituting in lieu thereof "***may***".

SJR 68, A JOINT RESOLUTION directing the Cabinet for Economic Development to study businesses owned by women.

WHEREAS, the Commonwealth of Kentucky is committed to increasing the opportunities for all individuals to contribute to the wealth of communities and the economy of the state; and

WHEREAS, according to the United States Small Business Administration over one-third of all United States businesses are women owned, and businesses owned by women increased by fifty-seven percent (57%) in a ten year period; and

WHEREAS, as of 1992, businesses owned by women employed more people than the Fortune 500 companies, according to a National Foundation for Women Owned Businesses survey, and by the year 2000 women are projected to own fifty percent (50%) of all businesses; and

WHEREAS, businesses owned by women operate in every industrial sector including manufacturing, construction, agribusiness, retail, and high-growth industries, such as health, business, and professional services; and

WHEREAS, access to capital is the greatest barrier to growth, but discrimination takes many forms adversely impacting the ability of businesses owned by women to raise or secure capital, to acquire managerial talents, and to capture market opportunities; and

WHEREAS, Kentucky women and businesses owned by women should have a greater and more meaningful role in the Commonwealth's economic development programs and in public and private economic development initiatives; and

WHEREAS, increasing economic opportunities for Kentucky women will improve the quality of life for all Kentuckians,

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Economic Development is directed to study businesses owned by women in Kentucky. The study may include, but not be limited to, the following:

(1) Statistical information concerning the women owned businesses in the Commonwealth, including number, type, location, number of employees, and financial status;

(2) Data collected and available by private and public sector entities relating to businesses owned by women;

(3) The status of businesses owned by women statewide, including progress made and barriers that remain to business growth; start-up business concerns, and reasons for business failures;

(4) Types of services and assistance needed by businesses owned by women including:

- (a) Financial, including:
    - 1. Access to private and public capital and infrastructure assistance;
    - 2. Applying for and securing business credit and investment capital;
    - 3. Preparing and presenting business statements;
    - 4. Managing cash-flow; and
    - 5. Otherwise managing the financial operations of a business concern;
- (b) Marketing, including:
    - 1. Access to government procurement and service contracts;
    - 2. Identifying and selecting domestic and international market opportunities;
    - 3. Preparing and executing marketing plans;
    - 4. Developing pricing strategies;
    - 5. Locating contract opportunities and negotiating contracts; and
    - 6. Utilizing public relations and advertising techniques;
- (c) Management and administration, including:
    - 1. Accessing trained and qualified employees;
    - 2. Planning, organizing, directing, and supporting employees;
    - 3. Training related to safety and security issues;
    - 4. Information about regulatory requirements, including identifying and countering discriminatory practices;
    - 5. Developing new technologies and information; and
    - 6. Creating a high performance work organization; and
- (d) Networking including;
    - 1. Accessing government programs at all levels;
    - 2. Accessing trade and professional associations, similar business sector alliances, telecommunication networks; and
    - 3. Other types of private sector services and partnerships;

(5) The level of government assistance to businesses owned by women, including:

- (a) The role of government agencies;
- (b) The degree to which government programs and services are utilized by businesses owned by women;
- (c) The degree to which government programs and services are available and marketed to businesses owned by women; and
- (d) Identification of statutory, regulatory, policy, or practice barriers to government service for women business owners.

Section 2. That an executive task force on businesses owned by women shall be established to assist the Cabinet for Economic Development in the study activities related to the provisions of Section 1 of this Joint Resolution.

(1) The task force shall consist of nine (9) members including the Department of Community Development Commissioner within the Cabinet for Economic Development or the Commissioner's designee, the Executive Director of the Commission on Women, the President of the Louisville Chapter of the National Association of Women Business Owners, the President of the Lexington Chapter of the National Association of Women Business Owners, and five (5) at-large members appointed from a list of women who own businesses.

(2) The five (5) at-large members shall be appointed by the Governor from a list of fifteen (15) nominees as provided in this subsection:

- (a) Three (3) nominees submitted by the governing body for the Kentucky Commission on Women;
- (b) Three (3) nominees submitted by the governing body of the Kentucky Federation of Business and Professional Womens Clubs, Inc.;

(c) Three (3) nominees submitted by the governing body of the Kentuckiana Minority Supplier Development Council;

(d) Three (3) nominees submitted by the governing body of the Louisville Chapter of the National Association of Women Business Owners; and

(e) Three (3) nominees submitted by the governing body of the Lexington Chapter of the National Association of Women Business Owners.

(3) In making the nominations and appointments, the recommending entities and the Governor shall attempt to assure representation from all geographic areas of the state, large and small businesses, minorities, women, and men.

(4) The Governor shall appoint the chair of the task force from the women business owners appointments. The task force shall meet at the call of the chair, but at least four (4) times annually.

(5) The members of the task force shall receive no compensation for their services, but shall receive reimbursement for expenses incurred in the attendance at meetings.

Section 3. There is hereby appropriated from the general fund the sum of $10,000 to accomplish the study. Any amount remaining following the completion of the study shall revert to the general fund. The study shall begin not later than September 1, 1994. The task force shall submit a report to the Governor and the Legislative Research Commission detailing the findings and recommendations of the study, which shall be submitted by October 1, 1995.

The Committee Amendment No. 1 to **SJR 68** is as follows:

On page 3, line 26, to add a period "." after the word "members";

On page 3, line 27, to delete the sentence in its entirety.

SCR 86, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Economic Development to study workforce training programs in Kentucky.

WHEREAS, a well-educated and highly trained workforce provides businesses in the Commonwealth with the competitive edge critical for their success; and

WHEREAS, too many adult Kentuckians are not full participants in a healthy economy because they lack the workplace knowledge necessary to assure self-sufficiency for themselves and their families; and

WHEREAS, The Commonwealth's current educational and training efforts are a fragmented array of separately funded and administered educational efforts that are not consumer driven, nor directly linked to quality employment opportunities; and

WHEREAS, the current array of post-secondary educational programs do not create a comprehensive system designed to coordinate career specific curriculum from secondary to higher education by fields of study;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Interim Joint Committee on Economic Development shall study the workforce training efforts to provide effective and efficient public educational programming to meet the current and future workplace demands. Workforce training is limited to public post-secondary certificate, diploma and associate degree level programs leading directly to employment opportunities without the requirement of a baccalaureate degree. The study shall include an examination of the level of workforce training efforts in the following areas:

(1) Consolidation of duplicate programs offered within a limited geographic area leading to identical employment opportunities;

(2) Transfer of credits among programs and institutions;

(3) Articulation agreements between the Kentucky Tech System, University of Kentucky community college system, state universities and local high schools;

(4) Alternative instructor certifications; and

(5) Linkage between the occupational programs offered and the demand and supply of employment opportunities in those careers.

Section 2. The Interim Joint Committee on Economic Development shall submit a report to the Legislative Research Commission detailing the findings and recommendations of the study which shall be submitted by October 1, 1995.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget, and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Business Organizations and Professions reported **SB 307**, with Committee Substitute attached thereto, and **SB 320** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 307, AN ACT relating to the simulcasting of horse races.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In counties containing more than one (1) track, intertrack wagering dates shall be awarded as follows:

(a) A receiving track of the same breed as the host track's breed shall have the right to receive, on an exclusive basis, sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990; and

(b) A receiving track of a different breed than the breed of the host track shall receive on an exclusive basis the remaining forty percent (40%) of the intertrack wagering dates not awarded by the commission under subsection (2)(a) of this section, and exclusive of days contained in subsection (4) of this section, if the receiving track was licensed to conduct racing of a different breed on or before January 1, 1990. Any unused intertrack wagering days or any intertrack wagering days not requested by and awarded to a receiving track of a different breed than the breed of the host track, shall be awarded to the receiving track of the same breed as the breed of the host track.

(3) Except in extraordinary circumstances, such as the need to accommodate a receiving track's sales activities or special events, intertrack wagering dates shall be awarded in weekly increments. The commission shall approve no more than nine (9) tracks for participation in intertrack wagering. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to ***each other*** [~~one another~~] or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to ***each other*** [~~one another~~]; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) ***(a)*** A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races with a purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.

(d) A track may [~~also~~] receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering***,*** and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The horsemen's association or any organization contracted to represent the horsemen's association at the instate track has approved the receipt of the out-of-state simulcasts. If no contract to represent the horsemen's association exists, approval may be received from the organization that represents the majority of horsemen at the instate track.

(f) The instate track receiving the simulcast specified in paragraph (e) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(g) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS 138.510 and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

The Committee Substitute to **SB 307** is as follows:

SB 307, AN ACT relating to the simulcasting of horse races.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In counties containing more than one (1) track, intertrack wagering dates shall be awarded as follows:

(a) A receiving track of the same breed as the host track's breed shall have the right to receive, on an exclusive basis, sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990; and

(b) A receiving track of a different breed than the breed of the host track shall receive on an exclusive basis the remaining forty percent (40%) of the intertrack wagering dates not awarded by the commission under subsection (2)(a) of this section, and exclusive of days contained in subsection (4) of this section, if the receiving track was licensed to conduct racing of a different breed on or before January 1, 1990. Any unused intertrack wagering days or any intertrack wagering days not requested by and awarded to a receiving track of a different breed than the breed of the host track, shall be awarded to the receiving track of the same breed as the breed of the host track.

(3) Except in extraordinary circumstances, such as the need to accommodate a receiving track's sales activities or special events, intertrack wagering dates shall be awarded in weekly increments. The commission shall approve no more than nine (9) tracks for participation in intertrack wagering. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to ***each other*** [~~one another~~] or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to ***each other*** [~~one another~~]; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) *(a)* A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races with a purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.

(d) A track may ~~[also]~~ receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering, and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5) (d) of this section is obtained.

(f) The instate track receiving the simulcast specified in paragraph (e) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(g) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS 138.510 and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

SB 320, AN ACT relating to harness racing at county fairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 137.170 is amended to read as follows:

(1) Every person engaged in the business of conducting a race meeting at which live horse races are run for stakes, purses, or prizes, under the jurisdiction of the Kentucky Racing Commission, shall pay a license tax to the state, as provided in subsection (2) of this section.

(2) Any race track for any year commencing December 1 and ending the following November 30 for the days upon which races are actually conducted for any stake, purse, or prize, shall pay a license tax based on the average daily mutuel handle for the preceding year as follows:

Average Daily Mutuel Handle	License Tax
$0 - $25,000	***$ 0***
$25,000~~[0]~~ - $250,000	$ 175
$250,001 - $450,000	$ 500
$450,001 - $700,000	$1,000
$700,001 - $800,000	$1,500
$800,001 - $900,000	$2,000
$900,001 and above	$2,500

(3) As used in subsection (2) of this section the term "daily mutuel handle" shall be understood to mean the total gross amount of money bet or wagered by a race track's patrons by means of pari-mutuel, combination, or French pools on live

races conducted by the track.

Section 2. KRS 138.510 is amended to read as follows:

(1) ***Except for the conduct of harness racing at a county fair,*** an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track and shall not include money wagered at a receiving track, at a simulcast facility, or on telephone account wagering. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on all licensed tracks conducting telephone account wagering or participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission. The tax shall be in the amount of three percent (3%) of all money wagered by these methods during the fiscal year. An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in this subsection and deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting.

(3) Two-tenths of one percent (0.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(4) One tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1) and (2) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. In no event shall funds allocated under this subsection replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Higher Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Higher Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 3. KRS 138.480 is amended to read as follows:

Except for the conduct of harness racing at a county fair, each person entering the grounds or enclosure of any race track at which a live race meeting is being conducted under the jurisdiction of the Kentucky Racing Commission, for the purpose of attending the races or for any other purpose connected therewith, shall pay a tax of fifteen cents ($0.15) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents ($0.15) shall be paid by each person using such ticket on each day that it is used. No admission tax shall be collected from any of the employees of the race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax provided for in this section shall be collected by the race track from each person on entering the race track or enclosure on a paid or free admission. The race track shall account to and pay to the state the money so collected.

Calendar

HR 85, SB 311, SB 168, SB 266 and **SB 268** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 205**, by Representative Yates:

On page 1, between line 14 and line 15, a new subsection (4) shall be added to read:

"***(4) The cabinet shall not promulgate administrative regulations for the purpose of creating tests or other criteria that might limit a person's ability to obtain or retain an operator's license because he may be considered too old to drive.***"

Floor Amendment No. 1 to **SB 168**, by Representative Nesler:

on page 3, line 4, by adding, after "***merchant***", "***or the merchant's affiliate or authorized agent, when the merchant is regulated by the Public Service Commission;***" and by deleting the remainder of line 4; and

On page 3, by deleting line 5 in its entirety; and

on page 3, line 22, after "***merchant***", by adding "***or the merchant's affiliate or authorized agent when the merchant is***"; and

on page 5, line 6, after "***merchant***", by adding "***or the merchant's affiliate or authorized agent, where the merchant is a publicly traded corporation;***" and by deleting the rest of line 6; and

on page 5, line 8, by deleting the comma "***,***" between "***only***" and "***to***", and by adding, after the word "***merchant***", "***or the merchant's affiliate or authorized agent***"; and

on page 5, line 9, after "***on***", by deleting "***his own***" and by adding in lieu thereof "***the merchant's***".

Floor Amendment No. 4 to **SB 153**, by Representative Johnson:

On page 2, line 12, to delete the under lined material and to insert in lieu thereof:

"***Money paid to the County Attorney pursuant to this section shall be used only for payment of county attorney office operating expenses.***"

On page 2, line 13, to delete the same.

On page 2, line 14, to delete "***operating the office.***"

On page 2, line 14, following "***treasurer***"; insert "***, each fiscal year***"

Representative Bentley moved that the rules be suspended to introduce guests. Agreed.

The Majority Caucus Chairman announced a meeting upon recess in the Supreme Court Chambers.

Report On Enrolled Bills

HB 47, HB 337, HB 339, HB 341, HB 534, HB 660, HB 661, HJR 50, HJR 52 and **HCR 53** delivered to the Senate and signed by the President. Delivered to the Governor on March 22, 1994 at 2:20 p.m.

Recess

Representative Stumbo moved that the House recess for a Majority Caucus. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 15, SB 24, SB 78, SB 87, SB 137, SB 138, HB 9, HB 222, HB 284, HB 316, HB 319, HB 320, HB 321, HB 349, HB 379, HB 395, HB 421, HB 436, HB 445, HB 449, HB 452, HB 474, HB 500, HB 512, HB 526, HB 527, HB 528, HB 529, HB 567, HB 650** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:23 p.m.)

SB 15, SB 24, SB 78, SB 87, SB 137, SB 138, HB 9, HB 222, HB 284, HB 316, HB 319, HB 320, HB 321, HB 349, HB 379, HB 395, HB 421, HB 436, HB 445, HB 449, HB 452, HB 474, HB 500, HB 512, HB 526, HB 527, HB 528, HB 529, HB 567, HB 650 delivered to the Senate and signed by the President. Delivered to the Governor on March 22, 1994 at 3:55 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 311**, by Representative Donnermeyer:

On page 1, line 5, after "***mind***" by inserting "***, who is not known to be pregnant, provided that for any adult woman of child-bearing age who has made an advance directive and been diagnosed in writing as having a terminal condition, the attending physician shall cause a pregnancy test to be made to determine if the woman is pregnant***"

And on page 2, line 15, after "***physician***" by inserting "***, who shall be a board certified neurologist,***";

And on page 8, line 13, after "***circumstances***" by inserting "***if the grantor has executed an advance directive authorizing the withholding or withdrawal of artificially provided nutrition and hydration***";

And on page 10, line 13, by deleting "***for notification***" and inserting in lieu thereof "***a copy of the grantor's advance directive***";

And on page 10, line 14, by deleting "***that an advance directive has been made***";

And on page 10, line 16, by deleting "***notify***" and inserting in lieu thereof "***provide a copy of the grantor's advance directive to***".

Orders of the Day

SB 148 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SB 148** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 22 , 1994 roll call on **SB 148** - Appendix)

SB 148 was passed and the title agreed to.

Representative Little moved that the vote by which **SB 148** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 45 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **SB 45** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 22 , 1994 roll call on **SB 45** - Appendix)

SB 45 was passed and the title agreed to.

Representative Bowling moved that the vote by which **SB 45** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to allow floor privileges to all the Governor's Scholars. Agreed.

SB 152, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Floor Amendment No. 1 to **SB 152**. Agreed.

Representative B. Smith moved that **SB 152**, as amended, be passed.

On the roll call the vote was: Yeas 33, Nays 61. (See March 22, 1993 roll call on **SB 152** - Appendix)

SB 152, as amended, was defeated.

Representative Lindsay moved that the vote by which **SB 152**, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 12 to **SB 62**, by Representative B. Smith:

On page 104, line 22, after "year.", by adding "***The assessment program shall not include more than one (1) portfolio at the fourth grade level that shall be writing and there shall be a math portfolio required for the sixth grade.***"

Floor Amendment No. 2 to **SB 311**, by Representative Burch:

On page 15, by inserting between lines 5 and 6 the following new sections:

"SECTION 13. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 20 and Section 21 of this Act unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 14. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 15. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 16. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 13 to 20 and Section 21 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet a civil enforcement procedure.

SECTION 17. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 13 to 20 and Section 21 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 13 to 20 and Section 21 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 18. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 13 to 20 and Section 21 of this Act. Each local health department, or district health department that agrees to enforce Sections 13 to 20 and Section 21 of this Act shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 13 to 20 and Section 21 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 19. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 13 to 20 and Section 21 of this Act.

Section 20. KRS 438.045 is amended to read as follows:

(1) No person shall [~~knowingly~~] sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or [~~knowingly~~] solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation.

Section 21. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may *distribute* [~~provide~~] cigarettes or tobacco products*, including* [~~or~~] samples thereof*,* free of charge *or otherwise,* to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25)~~] nor more than *two hundred fifty* [~~one hundred~~] dollars *($250)* [~~($100)~~] for each offense. *The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.*";

And on page 15, line 6, by deleting "13" and inserting in lieu thereof "22".

Orders of the Day (Continued)

HB 678, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 678**. Agreed.

Representative Rasche moved that **HB 678**, by way of Committee Substitute, be passed.

Representative Hatcher moved the adoption of Floor Amendment No. 1 to **HB 678**. Rejected.

Representative Rasche moved that **HB 678**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 57, Nays 38. (See March 22, 1994 roll call on **HB 678** - Appendix)

HB 678, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 678**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 626, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved the adoption of the Committee Substitute to **HB 626**. Agreed.

Representative Simpson moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 626**. Agreed.

Representative Simpson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 626**. Agreed.

Representative Simpson moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 626**. Agreed.

Representative Simpson moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 626**. Agreed.

Representative Simpson moved that **HB 626**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 8. (See March 22, 1994 roll call on **HB 626** - Appendix)

HB 626, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 626**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 39, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Substitute to **SB 39**. Agreed.

Representative Johnson moved that **SB 39**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 22, 1994 roll call on **SB 39** - Appendix)

SB 39, by way of Committee Substitute, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 39**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 898, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Substitute to **HB 898**. Agreed.

Representative McElroy moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 898**. Agreed.

Representative McElroy moved that **HB 898**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 62, Nays 21. (See March 22, 1994 roll call on **HB 898** - Appendix)

HB 898, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 898**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 877, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 877**. Agreed.

Representative Lindsay moved that **HB 877**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 62, Nays 25. (See March 22, 1994 roll call on **HB 877** - Appendix)

HB 877, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 877**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 172**, by Representative Johnson:

On page 1, after line 8, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of promoting the use of a minor in a sexual performance when he knowingly sells magazines or

newspapers which contain, or have a history of publishing, advertisements promoting acts of prostitution or soliciting sex partners who are minors.

(2) Sale of magazines or newspapers containing, or which have a history of publishing, advertisements promoting acts of prostitution or soliciting sex partners who are minors is a Class B felony.

(3) A citizen may file a civil action against any establishment which sells magazines or newspapers containing, or having a history of publishing, advertisements promoting acts of prostitution or soliciting sex partners who are minors. The citizen may seek injunctive relief to close the vending establishment."

Floor Amendment No. 2 to **SB 172**, by Representative Northup:

On page 1, after line 8, to add the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) No person who is arrested for a nonviolent misdemeanor or violation offense, traffic offense, failure to appear for trial on a traffic offense, or failure to pay a parking fine, traffic citation, or fine after conviction of a traffic offense shall be strip searched or subjected to a body cavity search unless, based upon probable cause and consistent with applicable court decisions, the individual person should be searched for dangerous contraband. No judge shall issue a blanket order permitting strip searches of persons confined for an offense specified in this subsection. As used in this subsection, "traffic offense" means any charge for violating a provision of KRS Chapter 186, 189, or 189A.

(2) All strip searches regardless of the cause of the detention of the inmate shall be done by an officer of the same sex as the prisoner being searched. Only under emergency conditions can this provision be violated, and the conditions shall be documented in writing along with the reasons that an officer of the same sex could not conduct the search. The reasonableness of searches not using an officer of the same sex shall be subject to court review in an appropriate civil action.

(3) Regardless of the cause of the detention of the inmate, no body cavity search shall be done, except by an officer of the same sex as the prisoner being searched. Officers doing a body cavity search shall have received specific training, certified by the Department of Corrections, prior to the conduct of a body cavity search.

(4) The county shall be liable for civil damages when a person is treated in a manner inconsistent with the requirements of subsection (1), (2), or (3) of this section, and the conduct constituting the offense has been authorized, commanded, or wantonly tolerated by the fiscal court or the county judge/executive. In addition any county official who prescribes a rule for the treatment of prisoners, which violates the provisions of subsection (1), (2), or (3) of this section, or any county official or employee who violates the provisions of subsection (1), (2), or (3) of this section shall be personally liable for any portion of damages assessed against him.

Section 3. Jails shall have one (1) year from the effective date of this Act to comply with the provisions of subsection (3) of Section 1. Searches conducted prior to that date shall not be affected by the provisions of subsection (3) of Section 1."

Floor Amendment No. 1 to **SB 157**, by Representative Lewis:

On page 4, after line 17, by inserting the following:

"Section 4. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer***, classified alcoholic beverage control enforcement officers,*** and Commonwealth detective, active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his

creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 5. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)		Distiller's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(2)		Rectifier's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(3)		Blender's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(4)		Vintner's license, per annum	$ 500.00
(5)		Small winery license, per annum	$ 25.00
	(a)	Small winery off-premises retail license, per annum	$ 25.00
(6)		Wholesaler's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(7)		Retail package license, per annum:	
	(a)	In counties containing cities of the first class	$ 600.00
	(b)	In counties containing cities of the second class	$ 500.00
	(c)	In counties containing cities of the third class	$ 400.00
	(d)	In counties containing cities of the fourth class	$ 300.00
	(e)	In all other counties	$ 200.00
(8)		Retail drink license, per annum:	
	(a)	In counties containing cities of the first class	$ 800.00
	(b)	In counties containing cities of the second class	$ 500.00
	(c)	In counties containing cities of the third class	$ 400.00
	(d)	In counties containing cities of the fourth class	$ 300.00
(9)		Transporter's license, per annum	***$100.00*** [~~$ 25.00~~]
(10)		Dining car license, per annum	$ 50.00
(11)		Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12)		Special industrial alcohol license, per annum	$ 25.00
(13)		Special nonindustrial alcohol license, per annum	$ 25.00
(14)		Special agent's or solicitor's license, per annum	***$35.00*** [~~$ 20.00~~]

(15) Special storage or warehouse license, per annum ... $ 100.00

(16) Special temporary license, per month or part of month,
one sixth (1/6) of the fees enumerated in subsection (7).

(17) Special private club license, per annum ... $ 150.00

(18) Special Sunday retail drink license ... $ 300.00

(19) Nonresident, special agent or solicitor's license, per annum ... *$35.00* [~~$ 20.00~~]

(20) Transport permit, nonresident license, per annum ... *$100.00* [~~$ 25.00~~]

(21) Through transporter's license, per annum ... *$100.00* [~~$ 25.00~~]

(22) Freight forwarder's license, per annum ... *$100.00* [~~$ 25.00~~]

(23) Supplemental bar license:

- (a) In counties containing cities of the first class ... $ 800.00
- (b) In counties containing cities of the second class ... $ 500.00
- (c) In counties containing cities of the third class ... $ 400.00

(24) Restaurant wine license, per annum:

- (a) New applicants ... $ 300.00
- (b) Renewals ... $ 200.00

(25) Farm winery license, per annum ... $ 25.00

- (a) Farm winery retail outlet license ... $ 5.00

(26) Special temporary wine license ... $ 25.00

(27) Caterer's license, per annum ... $ 400.00

(28) *Any* [~~Such~~] other special license *that* [~~as~~] the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

(29) In the fiscal year beginning July 1, 1994, the board may use up to seventy-five percent (75%) of all annual license fee increases to make the employer contribution for participation in the hazardous duty retirement program pursuant to Section 1 of this Act. In each fiscal year after the fiscal year beginning July 1, 1994, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 6. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1) Brewer's license, per annum ... *$1,700.00* [~~$1,500.00~~]

(2) Microbrewery license, per annum ... $ 250.00

(3) Distributor's license, per annum ... *$500.00* [~~$ 200.00~~]

(4) Retailer's license per annum:

- (a) New applicants ... *$150.00* [~~$ 200.00~~]
- (b) Renewals ... *$150.00* [~~$ 75.00~~]

(5) Dining car license, per annum ... $ 100.00

(6) Transporter's license, per annum ... *$100.00* [~~$ 25.00~~]

(7) Special temporary license, per month or part of month ... $ 12.50

(8) Special off-premises storage license, per annum ... *$100.00* [~~$ 25.00~~]

(9) Distributor's storage, per annum ... $ 50.00

(10) Special beer transporter's license, per annum ... *$100.00* [~~$ 25.00~~]

(11) *Any* [~~Such~~] other special licenses *that* [~~as~~] the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by *administrative* regulation and adopted by the state board. Applicants for special licenses provided for *in this subsection* [~~under the authority granted in subsection (11)~~] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board *may* by *administrative* regulation *prescribe* [~~prescribes~~].

(12) In the fiscal year beginning July 1, 1994, the board may use up to seventy-five percent (75%) of all annual license fee increases to make the employer contribution for participation in the hazardous duty retirement program

pursuant to Section 1 of this Act. In each fiscal year after the fiscal year beginning July 1, 1994, the board may use up to fifty percent (50%) of all annual license fees to make the employer contributions for participation in the hazardous duty retirement program pursuant to Section 1 of this Act.

Section 7. Whereas, distilled spirits, wine, and malt beverage licenses are granted at the beginning of the fiscal year, an emergency is declared to exist and this Act shall become effective July 1, 1994.".

Floor Amendment No. 3 to **SB 311**, by Representative Donnermeyer:

On page 1, line 5, after "***mind***" by inserting "***, who is not known to be pregnant, provided that for any adult woman of child-bearing age who has made an advance directive and been diagnosed in writing as having a terminal condition, the attending physician shall cause a pregnancy test to be made to determine if the woman is pregnant***".

Floor Amendment No. 4 to **SB 311**, by Representative Donnermeyer:

On page 2, line 15, after "***physician***" by inserting "***, who shall be a board certified neurologist,***".

Orders of the Day (Continued)

SB 187 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stengel moved that **SB 187** be passed.

On the roll call the vote was: Yeas 84, Nays 3. (See March 22 , 1994 roll call on **SB 187** - Appendix)

SB 187 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 187** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 221, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **SB 221**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 2 to **SB 221**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 3 to **SB 221**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 5 to **SB 221**. Agreed.

Representative Lear moved that **SB 221**, as amended, be passed.

Representative Riggs moved the adoption of Floor Amendment No. 7 to **SB 221**.

Representative Farrow inquired if Floor Amendment No. 7 was germane to **SB 221**.

The Speaker ruled that Floor Amendment No. 7 was not germane to **SB 221**.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **SB 221**.

On the roll call to adopt Floor Amendment No. 1 to **SB 221**, the vote was **Yeas 28**--Adams, Allen, Altman, Ballard, Barrows, Bruce, Bryant, Buis, Coleman, Damron, Deskins, Farley, Farrow, Ford, Gedling, Gee, Graham, Hampton, Hancock, Long, Maggard, Mason, Morris, Noland, Stacy, Turner, Walton, Wayne, Worthington. **Nays 58**--Ackerson, Adkins, Arnold, Bentley, Bondurant, Bowling, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Collins, Curd, Cyrus, DeWeese, Donnermeyer, Fox, French, Geveden, Gray, Harper, Hatcher, Heleringer, Johnson, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Maricle, Marzian, Moberly, Nelson, Nesler, Northup, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Shacklette, Simpson, B. Smith, R. Smith, Stengel, Stumbo, Todd, Trapp, Treesh, Yates, Zimmerman.

Floor Amendment No. 1 to **SB 221** was rejected.

Representative Lear moved that **SB 221**, as amended, be passed.

On the roll call the vote was: Yeas 54, Nays 45. (See March 22, 1994 roll call on **SB 221** - Appendix)

SB 221, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 221**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 193**, by Representative Coleman:

On page 3, line 4, following "public" to insert "*; and*"; by bracketing and striking through "."

On page 3, at the beginning of line 5, to insert the following:

(d) Shall assist the State Parks Commission in the development of tourism, recreation, and the mission of Kentucky's state parks.; and

On page 3, below line 23, to insert the following:

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The State Parks Commission is hereby created. For administrative purposes, this commission is attached to the Department of Parks, which shall provide necessary support staff and services.

(2) The State Parks Commission shall consist of the following members: the commissioner of the Department of Parks; the deputy commissioner of support services; the commissioner of the Department of Fish and Wildlife Resources; the secretary of the Tourism Cabinet; the director of the Kentucky Nature Preserves Commission; the director of the Kentucky Historical Society; the chairman of the Kentucky Horse Park Commission; the commissioner of the Department of Personnel; and six (6) other members appointed by the Governor, including a resort park manager, and five (5) citizen members including a certified public accountant, a registered architect, an individual who is experienced in tourism promotion, an individual who is experienced in hotel or motel operations, and an individual who is experienced in restaurant operations. The citizen members and resort park manager shall serve four (4) year terms, unless sooner removed for cause; all other members shall serve during their terms of office. The commissioner of the Department of Parks shall act as chairman of the commission. Each citizen member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The State Parks Commission shall meet at least every three (3) months, and when called into session by the chairman at the request of the Governor, or of any two (2) or more members of the State Parks Commission, or on his own motion.

(2) In order to provide for independence, continuity of purpose, and oversight for the Department of Parks, the State Parks Commission shall advise the Governor and the commissioner of the Department of Parks on the following:

(a) The mission of the Commonwealth's state parks;

(b) Park operations, tourism promotion, and natural and historic preservation policy and programs;

(c) Development of new or specialized facilities, attractions or programs; and

(d) Development and implementation of a parks management design which recognizes the changes evolving in the tourism and hotel and motel industries.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The State Parks Commission may visit and inspect any state resort or recreational park or historic site and may inform and advise the commissioner of the Department of Parks in regard to the facility's physical or other condition, its operation, management, program, and general condition. The State Parks Commission or a majority of its members shall have full access to the grounds, buildings, and financial and other records belonging or relating to the facilities.

SECTION 6. The terms of office for the initial six (6) appointed members of the State Parks Commission shall be staggered as follows: two (2) members shall serve for terms expiring June 30, 1996; two (2) members shall serve for terms expiring June 30, 1997; and two (2) members shall serve for terms expiring June 30, 1998.

Floor Title Amendment to **SB 193**, by Representative Coleman:

By amending the title to read as follows: "AN ACT relating to Park Commissions."

Floor Amendment No. 5 to **SB 311**, by Representative Donnermeyer:

On page 8, line 13, after "*circumstances*" by inserting "*if the grantor has executed an advance directive authorizing the withholding or withdrawal of artificially provided nutrition and hydration*".

Floor Amendment No. 6 to **SB 311**, by Representative Donnermeyer:

On page 10, line 13, by deleting "***for notification***" and inserting in lieu thereof "***a copy of the grantor's advance directive***";

And on page 10, line 14, by deleting "***that an advance directive has been made***";

And on page 10, line 16, by deleting "***notify***" and inserting in lieu thereof "***provide a copy of the grantor's advance directive to***".

Floor Amendment No. 3 to **SB 172**, by Representative Palumbo:

On page 1, after line 8, by inserting the following:

"Section 2. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim, or serious physical injury to a victim.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on parole until he has served at least twelve (12) years in the penitentiary***, and shall not be eligible for probation, conditional discharge, or shock probation***.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on parole until he has served at least fifty percent (50%) of the sentence imposed***, and shall not be eligible for probation, conditional discharge, or shock probation***.

(4) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(5) This section shall apply only to those persons who commit offenses after July 15, 1986.".

Orders of the Day (Continued)

SB 158 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **SB 158** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 22 , 1994 roll call on **SB 158** - Appendix)

SB 158 was passed and the title agreed to.

Representative Rapier moved that the vote by which **SB 158** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 188, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Committee Amendment No. 1 to **SB 188**. Agreed.

Representative Stengel moved that **SB 188**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 22, 1994 roll call on **SB 188** - Appendix)

SB 188, as amended, was passed and the title agreed to.

Representative Stengel moved that the vote by which **SB 188**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 13, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 13** be passed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to **SB 13**. Agreed.

Representative Richards moved that **SB 13**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 22, 1993 roll call on **SB 13** - Appendix)

SB 13, as amended, was passed.

Representative Rapier moved the adoption of the Floor Title Amendment to **SB 13**. Agreed, and the title was agreed to.

HCR 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Trapp moved that **HCR 105** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 22, 1994 roll call on **HCR 105** - Appendix)

HCR 105 was adopted.

Representative Trapp moved that the vote by which **HCR 105** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative French moved that **HR 61** be adopted.

HR 61 was adopted by voice vote.

Representative French moved that the vote by which **HR 61** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 76 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HR 76** be adopted.

HR 76 was adopted by voice vote.

HR 93 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HR 93** be adopted.

HR 93 was adopted by voice vote.

SB 140 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **SB 140** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 22 , 1994 roll call on **SB 140** - Appendix)

SB 140 was passed and the title agreed to.

Representative Arnold moved that the vote by which **SB 140** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 5 to the Committee Substitute to **SB 153**, by Representative Nesler:

On page 2, line 23, by inserting after "***service,***" "***rent,***".

Orders of the Day (Continued)

SB 141, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **SB 141**. Agreed.

Representative Wayne moved that **SB 141**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 22, 1994 roll call on **SB 141** - Appendix)

SB 141, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **SB 141**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 208 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 208** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 22 , 1994 roll call on **SB 208** - Appendix)

SB 208 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 208** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 249 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 249** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 22 , 1994 roll call on **SB 249** - Appendix)

SB 249 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 249** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended for a Committee on Rules meeting upon recess. Agreed.

Representative Stumbo moved that the rules be suspended for a meeting of the Committee on Appropriations and Revenue upon Recess. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HCR 108**. Agreed.

Recess

Representative Stumbo moved that the House recess for a meeting of the Committee on Rules and the Committee on Appropriations and Revenue. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Heleringer moved that the rules be suspended to introduce guests. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 290, SB 53, SB 112, SB 131, SB 132, SB 133, SB 206, SB 247, SB 346, HR 58, SB 184, SB 205, SB 225, SB 228, SB 237, SB 248, SB 258, SB 280, SB 301, SB 180, SB 243, SB 168, SB 268** and **SB 311** have been posted for passage in the Orders of the Day for March 23, 1994.

The Committee on Rules reported that the following Bills have been recommitted:

Judiciary: **HB 727, HB 821**

Labor and Industry: **HB 735**

Transportation: **HB 828**

Appropriations and Revenue: **SB 227, SCR 65, SB 164**

Introductions of Bills and Resolutions

HR 109, by Representative Hatcher: A RESOLUTION urging the Department of Parks to develop camping facilities in state parks for horseback riders.

HR 110, by Representatives Todd and Damron: A RESOLUTION directing the Kentucky State Board of Registration for Professional Engineers and Land Surveyors to review its requirement of reexamination and its complaint, investigation, and hearing procedures to insure fairness to all its registrants.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 308, SB 361**

Labor and Industry: **SB 263, SB 269, SB 284, SB 331**

Judiciary: **SB 278, SB 319**

Natural Resources and Environment: **SB 214**

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HCR 108** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 108, A CONCURRENT RESOLUTION requesting that the Governor include the issue of the tax treatment of private pensions on the call of any special session called on tax reform.

WHEREAS, the principles of a good state tax system should not only provide sufficient and timely revenues that promote economic efficiency and growth, they should also ensure that the tax burden is distributed in an equitable manner; and

WHEREAS, based on the principles of a good state tax system, the tax treatment of private pensions is an issue fundamentally associated with any tax reform effort;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Governor include the issue of the tax treatment of private pensions on the call of any special session called on tax reform.

Section 2. That the Clerk of the House of Representatives be directed to forward a copy of this Resolution to the Office of the Governor.

Motions, Petitions and Communications (Continued)

Representative Lewis moved that **HB 411** be withdrawn. Agreed.

Representative Damron moved the adoption of the following **Legislative Citation No. 2**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Robert L. Gullette, Sr. The House of Representatives joins Representative Robert Damron in expressing its deepest sympathy to the Gullette family for the loss of your affectionate husband, thoughtful father, caring brother and tender grandfather. Robert Gullette, Sr., a former State Representative, shall be remembered as a valued friend, dedicated public servant and respected colleague.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **SB 308, SB 361** and **SB 214**. Agreed.

Representative Stumbo moved that all remaining House Bills in the Regular Orders of the day be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Mullinix moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mullinix moved that he be recorded as voting "yea" on **SB 158**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **SB 158**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills under rules previously suspended: **HB 691**, Representative Stengel; **HB 10**, Representatives Stacy, Kerr.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 290**, by Representative Ford:

On page 1, by deleting the language on lines 1 through 7 and inserting the following language in lieu thereof:

"Section 1. It is proposed that the Constitution of Kentucky be amended to add a new Section 229A to read as follows:

"***In order to better protect the public health, safety, and financial resources of the Commonwealth, it shall be unlawful for:***

(1) Persons of the same sex to engage in deviate sexual intercourse; and

(2) The Commonwealth, or any state or local public agency, county, or municipal government, or agency thereof, or any public officer or public employee, as a policy of government, to use their position or the facilities and resources of the Commonwealth to sanction activities or programs which legitimize, promote, condone, or permit the activities and practices prohibited in subsection (1).

Section 2. Upon the passage and approval of this amendment by the voters, KRS 510.100 shall have full force and effect, until the statute is amended or repealed by the General Assembly.

Section 3. Notwithstanding any provision of KRS 118.415(2) to the contrary, this proposed amendment shall be summarized on the ballot and be presented to the voters in the following language:

"Do you want to better protect the public health, safety, and financial resources of the Commonwealth by prohibiting persons of the same sex from engaging in deviate sexual intercourse, and prohibit government from promoting, protecting, or condoning such activity? A "YES" vote will restore the present statute which has been declared unconstitutional.""; and

On page 1, line 8, by deleting "2" and inserting in lieu thereof "4".

Floor Title Amendment to **HB 290**, by Representative Ford:

By amending the title to read " AN ACT proposing an amendment to the Constitution of Kentucky relating to the ability of the General Assembly to prohibit illegal activity.".

Announcements

The Clerk announced the following meetings:

State Government, upon adjournment, Room 129

Cities, 9:30 a.m., Room 131

Adjournment

Representative Fox moved that the House adjourn until 2 p.m., Wednesday, March 23, 1994.

On the roll call the vote was **Yeas 76**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bryant, Butler, Callahan, Cave, P. Clark, Clarke, Coleman, Collins, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Johnson, Kerr, Lear, Lee, Lindsay, Little, Long, Marzian, Mason, McElroy, Moberly, Morris, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, Smith, Stacy, Stengel, Stumbo, Todd, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 10**--Buis, Heleringer, Keith, LeMaster, Lile, Maggard, Mullinix, Napier, Reinhardt, B. Smith.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 23, 1994

FIFTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Leon McIntyre, First African Baptist Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Ackerson.

Senate Message

Announcing passage of **SB 108**, **SB 232**, **SB 338**, **HB 71**, **HB 175**, **HB 223**, **HB 257**, **HB 258**, **HB 259**, **HB 261**, **HB 262**, **HB 263**, **HB 264**, **HB 266**, **HB 267**, **HB 318**, **HB 479**, **HB 485**, **HB 514**, **HB 522**, **HB 547**, **HB 561**, **HB 570**, **HB 576**, **HB 579**, **HB 721**, **HB 931**, **HJR 3** and **HCR 41**. **SB 255** returned with the following message: The Senate has refused to concur in the House Committee Substitute to **SB 255** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute.

Message received on **HB 32**, **HB 95**, **HB 183**, **HB 200**, **HB 260**, **HB 510**, **HB 613** and **HB 250**. The Senate has passed **HB 32**, by way of Senate Committee Substitute and Senate Floor Amendment , **HB 95**, by way of Senate Committee Substitute, **HB 183**, with Senate Committee Amendment, **HB 200**, with Senate Committee Amendment, **HB 260**, with Senate Committee Amendment, **HB 510**, by way of Senate Committee Substitute, **HB 613**, with Senate Committee Amendment, and **HB 250**, by way of Senate Committee Substitute No. 2 with Senate Floor Amendments. (Time: 2:05 p.m.)

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 22, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 5 to **SB 136**, by Representative Burch:

On page 3, below line 27, By adding the following new subsection:

"***(11) Minors shall have written parental consent to engage in sexual intercourse. Minors violating this subsection shall be required to obtain counseling on family planning with an emphasis on abstinence.***"

Floor Amendment No. 2 to **SB 268**, by Representative Long:

On page 14, line 22, after "***fund***" by inserting "***subject to the enacted budget bill***".

Introduction of Bills and Resolutions

HR 111, by Representative Cyrus: A RESOLUTION proclaiming the current Miss Kentucky, Tonya Dee Virgin, and each future Miss Kentucky, to be the official hostess of the Commonwealth of Kentucky during her reign as Miss Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

Business Organizations and Professions: **HR 110**

Tourism Development and Energy: **HR 109**

Report of Committees

The Committee on Cities reported **SB 303** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 303, AN ACT changing the classification of the City of Hurstbourne Acres, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Hurstbourne Acres, in Jefferson County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Hurstbourne Acres, in Jefferson County, is transferred from the sixth to the fifth class of cities.

The Committee on Elections and Constitutional Amendments reported **SB 245,** with Committee Substitute attached thereto, **SB 256,** with Committee Substitute attached thereto, **SB 272** and **SB 348** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 245, AN ACT relating to the conduct and financing of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

  (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office;

  (b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

  (c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, slates of candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year;

  (d) An executive committee of a political party; and

  (e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

  (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

  (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services;

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities; or

(e) Expenditure in connection with any other activity undertaken independently of the activities of a candidate, slate of candidates, committee, or contributing organization made or furnished for the purpose of influencing the results of an election;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization; or

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for ***a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents*** [~~public office~~].

Section 2. KRS 121.025 is amended to read as follows:

No corporation ***authorized to do business in this state or in another state***, and no officer or agent of a corporation on its behalf, shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state, county, city, or district officer ***in this state***, or pay, promise, loan, or become liable in any way for any money or other valuable thing on behalf of any candidate for office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from a corporation with the understanding or agreement, either direct or implied, that he will contribute to any such candidate, or on his behalf, any part or all of such compensation, towards the nomination or election of such candidate.

Section 3. KRS 121.035 is amended to read as follows:

(1) No corporation organized or authorized to do business in this state ***or in another state*** shall, by itself or by or through an officer, agent, attorney, or employee, subscribe, give, procure or furnish, or afterwards reimburse or compensate in any way any person who has subscribed, given, procured, or furnished, any money, privilege, favor, or other thing of value to any political or quasi-political organization, or any officer or member thereof, to be used by such organization for the purpose of aiding, assisting, or advancing any candidate for public office ***in this state*** in any way whatever.

(2) No officer, agent, attorney, or employee of any corporation organized or authorized to do business in this state ***or in another state***, or person acting for or representing any such corporation, shall disburse, distribute, pay out, or in any way handle any money, funds, or other thing of value that belongs to or has been or is being furnished by any such corporation or any officer, agent, attorney, or employee thereof to be used or employed in any way for the purpose of aiding, assisting, or advancing any candidate for public office ***in this state*** in any way whatever.

(3) Nothing in this section shall be construed to prohibit a corporation from making contributions in support of a position on an issue of public importance.

Section 4. KRS 121.065 is amended to read as follows:

(1) No publisher of newspapers, magazines, handbills, or other printed matter, owner or lessor of billboards, radio or television station or network, or any other person, company, corporation, or organization offering its communications

services for hire to the public shall be permitted to charge fees for political advertising in excess of ***the lowest rate*** [~~those~~] charged ***to*** other advertisers ***at the time the political advertising is purchased***.

(2) Political advertising means any communication intended to support or defeat a candidate for public office.

(3) An action to enjoin violations of this section shall be in the Circuit Court of the county where the complaining candidate resides.

Section 5. KRS 121.110 is amended to read as follows:

(1) There is hereby created as an independent agency of state government a Kentucky Registry of Election Finance. The registry shall be composed of seven (7) members appointed as provided herein. The registry shall remain independent of any other agency or department of state government. Members shall be at least twenty-five (25) years of age, registered voters in Kentucky, not announced candidates for public office, not officers of a political party's state central executive committee, shall not have been convicted of an election offense, and shall be persons of high ethical standards who have an active interest in promoting fair elections. Appointees shall be subject to Senate confirmation at the next regular session of the General Assembly following appointment, or at the next special session if included in the Governor's call. Appointees shall have full power to serve until any vote of nonconfirmation.

(2) Members of the registry shall be selected as follows:

(a) One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the state central committee of the political party polling the largest vote at the last gubernatorial election.

(b) One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the state central committee of the political party polling the second largest vote at the last gubernatorial election. The members appointed pursuant to subsections (a) and (b) of this section shall take office on August 15, 1990, for a term of one (1) year and their successors shall serve a term of four (4) years beginning August 15, 1991, or until their successors are appointed and qualified.

(c) Two (2) other members shall be appointed by the Governor. Before making these appointments, the Governor shall solicit nominations from at least two (2) organizations which have demonstrated a nonpartisan interest in fair elections and informed voting. The Governor's solicitations and the replies shall be public records. The Governor shall give due consideration to such nominations. The two (2) members appointed pursuant to this subsection shall be one (1) from each of the two (2) political parties which polled the greatest number of votes at the last gubernatorial election. Members appointed pursuant to this subsection shall take office on August 15, 1988, for a term of four (4) years or until their successors are appointed and qualified and their successors shall serve a term of four (4) years.

(d) One (1) member shall be appointed by the ***Auditor of Public Accounts*** [~~Lieutenant Governor~~] after soliciting nominations as provided by subsection (c) of this section. The appointee shall be a member of one (1) of the two (2) political parties which polled the greatest number of votes at the last gubernatorial election. The member appointed pursuant to this subsection shall take office on August 15, ***1997*** [~~1990~~], for a term of ***four (4)*** [~~three (3)~~] years or until his successor is appointed and qualified and his successors shall serve a term of four (4) years.

(e) One (1) member shall be appointed by the Attorney General after soliciting nominations as provided by subsection (c) of this section. The appointee shall not be a member of the same political party as the person appointed by the ***Auditor of Public Accounts*** [~~Lieutenant Governor~~] pursuant to subsection (d) of this section. The member appointed pursuant to this subsection shall take office on August 15, 1990, for a term of four (4) years or until his successor is appointed and qualified and his successors shall serve a term of four (4) years.

(f) One (1) member shall be appointed by the Secretary of State after soliciting nominations as provided by subsection (c) of this section. The Secretary of State's appointment shall be without regard to political affiliation. The member appointed pursuant to this subsection shall take office on August 15, 1990, for a term of three (3) years or until his successor is appointed and qualified and his successors shall serve a term of four (4) years.

(3) The members of the registry shall select a chairman from among the appointed membership, effective August 15, 1990. The chairman shall serve in that capacity for one (1) year and shall be eligible for reelection. The chairman shall preside at all meetings and shall have all the powers and privileges of the other members.

(4) In the event of a vacancy in the office of any member, the vacancy shall be filled in the same manner as the vacating member's office was filled pursuant to subsection (2) of this section.

(5) The registry shall fix the place and time of its regular meetings by order duly recorded in its minutes. No action shall be taken without a quorum present. Special meetings shall be called by the chairman on his own initiative or on the written request of three (3) members. Members shall receive seven (7) days' written notice of a special meeting and the notice shall specify the purpose, time and place of the meeting, and no other matters may be considered, without a specific waiver by all the members.

(6) The members of the registry shall receive sixty-five dollars ($65) per diem, and shall be reimbursed for all reasonable and necessary expenses.

Section 6. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities; and

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the commissioner of the Department of Personnel and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, and parties, containing the total receipts and expenditures***;***[~~,~~] and

1. For each contribution made by a permanent committee of any amount to a candidate, slate of candidates, or exploratory committee, the date, name***,*** and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** [~~for each contribution of any amount made by a permanent committee, and~~]

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation***,*** and employer of each other contributor [~~and the spouse of the contributor~~] or, if the contributor [~~or the spouse of the contributor~~] is self-employed, the name under which he is doing business, and ***the*** amount contributed by each contributor, listed alphabetically[~~, shown to have contributed in excess of one hundred~~

~~dollars ($100) to candidates and slates of candidates~~];

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of ***six (6)*** [~~four (4)~~] years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General ***or the appropriate Commonwealth's or county attorney*** any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

Section 7. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. In conducting any investigation, the registry shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.

(2) If the registry concludes that there is probable cause to believe that the law has been violated, the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(3) To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(4) If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, ***the registry shall, within five (5) days, submit a written request to the Chief Justice of the Kentucky Supreme Court to recommend not fewer than ten (10) nor more than fifteen (15) retired or former Justices or retired or former Judges of the Court of Justice who are qualified and willing to serve on a panel which shall conduct a hearing to determine if a violation has occurred. Upon receipt of the recommendations of the Chief Justice, the registry shall randomly select three (3) retired or former Justices or Judges from the list to conduct the hearing, which shall be held in***

accordance with the Kentucky Rules of Civil Procedure, or, if the Chief Justice declines to make recommendations, the registry, on its own initiative, shall request retired or former Justices or Judges to serve on the panel. The time and location of hearings shall be determined by the registry. Justices or judges selected to serve on a three (3) judge panel shall receive reimbursement from the registry for their reasonable and necessary expenses incurred as a result of the performance of their duties ~~[a hearing before a panel of three (3) active or retired Justices or Judges of the Court of Justice appointed by the Chief Justice of the Supreme Court shall be held in accordance with the Kentucky Rules of Civil Procedure to determine if a violation has occurred]~~. The registry shall notify the complainant and the alleged violator that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. At the hearing, which shall be open to the public pursuant to KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator, and the alleged violator shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. The panel shall conclude its proceedings and render a decision not more than sixty (60) days after the date on which the panel was appointed to conduct a hearing. If the panel determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order, which shall be appealable to the Court of Appeals within thirty (30) days after the date of the order, to the violator to comply with any one (1) or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter. An appeal of an order of the panel shall be advanced on the docket to permit a timely decision.

(5) If the registry concludes that there is probable cause to believe that the campaign finance law has been violated knowingly, it shall refer the violation to the Attorney General ***or the appropriate Commonwealth's or county attorney*** for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon a motion timely filed, for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.

(6) Any person directly involved or affected by an action of the registry or the panel which is final, other than of a determination to refer a violation to the Attorney General ***or appropriate Commonwealth's or county attorney*** for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action.

(7) If judicial review is sought of any action of the registry or the panel relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 8. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. As used in this section, "independent expenditure" means one made for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, or the passage or defeat of a constitutional amendment or public question which will appear on the ballot and which is not made with any direct or indirect cooperation, consent, request, suggestion, or consultation involving a candidate, slate of candidates, campaign committee, political issues committee, or agent. ***No candidate, slate of candidates, campaign committee, political issues committee, nor anyone acting on their behalf shall have any communication with another person nor anyone on his behalf regarding that person's making of an independent expenditure on behalf of the candidate, slate, or committee prior to the time the independent expenditure is made.*** Any person making an "independent expenditure," as defined in this subsection, shall report these expenditures when the expenditures exceed five hundred dollars ($500) in the aggregate in any one (1) election, on ***a form*** ~~[forms]~~ provided by the registry ***and shall sign a statement on the form, under penalty of perjury,***

that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by candidates, slates of candidates, campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or slate of candidates to continue regular personal contributions to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) ***in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf***.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than five hundred dollars ($500) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than five hundred dollars ($500) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other

statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) No candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) No slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) No candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) No candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(21) No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(22) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(23) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the thirty (30) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(24) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(25) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed thirty-five percent (35%) of the total contributions accepted by the candidate in any one (1) election cycle or five thousand dollars ($5,000) in any one (1) election cycle, whichever is the greater amount. For the purposes of this subsection, "election cycle" means the period between regular elections for the office a candidate seeks. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election cycle that is accepted from permanent committees shall be calculated as of the regular election day that ends the election cycle. Funds in a candidate's campaign account which are carried forward from one (1) election cycle to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election cycle for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than twenty (20) days following the election cycle so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than twenty (20) days after the end of the election cycle, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(26) No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution,

including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 9. KRS 121.160 is amended to read as follows:

(1) ***As part of the filing papers*** each candidate or slate of candidates shall***, on a duplicate form prescribed and furnished by the registry,*** designate a campaign treasurer to act as their agent at the time and at the office with which they file as a candidate or slate of candidates [~~on a duplicate form prescribed and furnished by the registry~~] and until this requirement is met the candidate or slate of candidates shall be listed as their own treasurer and accountable as such. The candidate or slate of candidates may appoint themselves or any registered voter in Kentucky as ***the*** [~~his~~] campaign treasurer. The office with which the candidate or slate of candidates is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's or slate's campaign treasurer and shall attach the original to the candidate's or slate's filing papers. The office with which the candidate or slate of candidates files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank ***in which the primary campaign account shall be maintained*** [~~for all campaign funds~~] and deposit all contributions in that ***account*** [~~depository~~];

(b) Keep detailed and exact accounts of***:***

1. ***Contributions of any amount made by a permanent committee,*** [~~contributions in general and~~] by name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** [~~for each contribution of any amount made by a permanent committee, and~~]

2. ***Contributions in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, by the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and***

3. ***Contributions in excess of one hundred dollars ($100) made to any candidate other than those specified in subparagraph 2.,*** by name, address, age if under legal voting age, ***date of the contribution, amount of the contribution, and*** the employer ***and occupation*** of each other contributor***.*** [~~and the spouse of the contributor, or~~] If the contributor [~~or the spouse of the contributor~~] is self-employed, the name under which he is doing business ***shall be listed.*** [~~, and occupation where the contribution exceeds one hundred dollars ($100);~~] The occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate or slate of candidates. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of the expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of six (6) years from the date he files his last report under KRS 121.180(3)***(b)1.***[~~(a)~~]; and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate or slate of candidates may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate or slate of candidates shall within three (3) days after receiving notice thereof by certified mail, [~~return receipt requested,~~] appoint a successor and shall file his name and address with the registry. The candidate, or slate shall be accountable as their own campaign treasurer if they fail to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate or slate of candidates, but all reports shall be made separately for each individual candidate or slate.

(6) The candidate or slate of candidates may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and shall comply with the reporting provisions of KRS 121.180 and administrative regulations promulgated by the registry.

Section 10. KRS 121.170 is amended to read as follows:

(1) Any committee***, except a federally-registered out-of-state permanent committee,*** organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry***; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a***

joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for ***statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents*** [~~elected office~~] shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) and KRS ***121A.020(5)*** [~~121A.010(5)~~].

(3) All provisions of KRS 121.160 and 121A.070 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered out-of-state permanent committee, and a person acting as a campaign fundraiser.

(4) The chairman of a committee and the campaign treasurer shall be separate persons.

(5) A permanent committee***, except a federally-registered out-of-state permanent committee,*** shall pay an administrative fee of two hundred dollars ($200) to the registry at the time it files its registration papers. A permanent committee***, except a federally-registered out-of-state permanent committee,*** shall pay an administrative fee of two hundred dollars ($200) to the registry no later than the last day of the first calendar quarter following the year in which it registers with the registry and each succeeding year thereafter until the permanent committee terminates. The amount of administrative fees received by the registry from permanent committees shall be transferred to the State Treasurer for deposit in the election campaign fund established by KRS 121A.020.

(6) Any federally-registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(7) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. Sec. 441b, 11 C.F.R. Sec. 104.10, 11 C.F.R. Sec. 106.6, and 11 C.F.R. Sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

(8) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

Section 11. KRS 121.175 is amended to read as follows:

(1) No candidate, committee, or contributing organization shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures. "Allowable campaign expenditures" means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot and includes, but is not limited to, expenditures for staff salaries, ***gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally,*** advertising, office space, necessary travel, campaign paraphernalia, ***purchases of advertisements in athletic and scholastic publications,*** communications with ***constituents or*** prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign. "Allowable campaign expenditures" does not include expenditures of funds in a campaign account for any purpose made unlawful by other provisions of the Kentucky Revised Statutes or which would bestow a private pecuniary benefit, except for payment of the reasonable value of goods and services provided upon a candidate, member of the candidate's family, committee, or contributing organization, or any of their employees, paid or unpaid, including: tickets to an event which is unrelated to a political campaign or candidacy; items of personal property for distribution to prospective voters except items bearing the name, likeness, or logo of a candidate or a campaign-related communication; expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and equipment or appliances the primary use of which is for purposes outside of the campaign. The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his campaign account. A member of the General Assembly may utilize funds in his campaign account to purchase admission tickets for political party functions, to purchase items with a value of not in excess of one hundred dollars ($100) for donation to a political party

for auctions and fundraisers, and to participate in or support other events sponsored by a political party.

(2) By December 31, 1993, the registry shall promulgate administrative regulations to implement and enforce the provisions of subsection (1).

(3) In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:

(a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000); and

(b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000).

Section 12. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, [~~or campaign treasurer,~~] or political issues committee shall be exempt from filing any pre-election finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman [~~or treasurer~~] files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. ***For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection.*** A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, [~~campaign treasurer,~~] or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, [~~campaign treasurer,~~] or political issues committee chairman [~~or treasurer~~] files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of two hundred fifty dollars ($250) in any one (1) election. ***For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection.*** A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate ***or***[~~,~~] slate of candidates[~~, campaign treasurer, or political issues committee chairman or treasurer~~] shall file a request for exemption not later than the deadline for filing nomination papers and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and [~~it~~] shall be bound by its terms unless ***rescinded*** [~~it rescinds it~~] in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate ***or***[~~,~~] slate of candidates[~~, campaign treasurer, or political issues committee chairman or treasurer~~] shall file a request for exemption not later than ten (10) days after the date of the preceding primary election, or runoff primary, if one is held, and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date of the primary election, or runoff primary, if one is held. For a special election, a candidate ***or***[~~,~~] slate of candidates[~~, or campaign treasurer~~] shall file a request for exemption not later than ten (10) days after ***the candidate or slate of candidates is*** [~~being~~] nominated for a special election[~~,~~] and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. ***A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.***

(d) *A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.*

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. A candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in paragraph (d) of this subsection.

(g) Any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates may exercise the reversion rights provided in paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) The campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(k) 1. Any candidate, slate of candidates, ~~[campaign treasurer,]~~ or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), ~~[or]~~ (b)*, or (e)* of this subsection that accepts contributions or *makes expenditures* ~~[expends]~~, or whose campaign treasurer accepts contributions or *makes expenditures* ~~[expends]~~, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, *in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.*

2. A candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), or (e) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony ~~[in addition to other penalties prescribed by law, in the case of a candidate or slate of candidates, upon a final determination that a violation occurred, be ineligible as a candidate or slate of candidates for the office sought, the nomination or election shall be void, and a vacancy shall be declared]~~.

(2) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source*, and expenditures authorized, incurred, or made,* since the date of the last report, including*:*

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, *the date of the contribution,* the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee*;* ~~[for each contribution of any amount made by a permanent committee, and]~~

(b) For other contributions in excess of one hundred dollars ($100), the full name*,* ~~[and]~~ address*,* ~~[of each other contributor, and the]~~ age if less than the legal voting age, the *date of the contribution, the amount of the contribution, and the* employer *and occupation* of each contributor*.* ~~[and the spouse of the contributor or,]~~ If the contributor ~~[or the spouse of the contributor]~~ is self-employed, the name under which he is doing business *shall*

be listed; [~~, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item.~~]

(c) The total amount of cash contributions received during the reporting period; and

(d) A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each regular election.

(3) ***(a)*** Except for candidates or slates of candidates, campaign ***committees*** [~~treasurers~~], or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, ***and expenditures authorized, incurred, and made,*** since the date of the last report, including***:***

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** [~~for each contribution of any amount made by a permanent committee, and~~]

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name***,*** [~~and~~] address***,*** [~~of each other contributor, and the~~] age if less than the legal voting age, ***the date of the contribution, the amount of the contribution, and*** the employer ***and occupation*** of each other contributor***.*** [~~and the spouse of the contributor or,~~] If the contributor [~~or spouse of the contributor~~] is self-employed, the name under which he is doing business ***shall be listed;*** [~~, and occupation of each person or group contributing in excess of one hundred dollars ($100), to a candidate, slate of candidates, or political issues committee the amount contributed by each and the date of the contribution, whether the contribution was in cash, and~~]

4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. [~~The total amount of cash contributions received during the reporting period shall be listed as a separate item.~~] The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1.[~~(a)~~] Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;

2.~~[(b)]~~ All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

3.~~[(c)]~~ All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the ***fifteenth*** ~~[twelfth]~~ day preceding the date of the election; and

4.~~[(d)]~~ All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) ***Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section,*** all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above ***from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office*** exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount ***of the purchase*** ~~[purchased shall be reported to the registry]~~. ***When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase.*** The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) (a) Each permanent committee***, except a federally-registered out-of-state permanent committee,*** inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, ***and all expenditures authorized, incurred, or made,*** since the date of the last report, including***:***

1. ***For each contribution of any amount made by a permanent committee,*** the name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** ~~[for each contribution of any amount made by a permanent committee, and]~~

2. ***For other contributions in excess of one hundred dollars ($100),*** the full name***,*** ~~[and]~~ address***,*** ~~[of each other contributor, and the]~~ age if under the legal voting age, ***the date of the contribution, the amount of the contribution, and the*** employer ***and occupation*** of each contributor***.*** ~~[and the spouse of the contributor or,]~~ If the contributor ~~[or the spouse of the contributor]~~ is self-employed, the name under which he is doing business ***shall be listed;***~~[, and occupation of each person or group contributing in excess of one hundred dollars ($100) and if in cash it shall be so stated.]~~

3. An aggregate amount of cash contributions***,*** ~~[shall also be reported,]~~ the amount contributed by each ***contributor,*** and the date of ***each*** ~~[the]~~ contribution***;***~~[,]~~ and

4. A complete statement of all expenditures authorized, incurred***,*** or made, including "independent expenditures" as defined in KRS 121.150(1). This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline; and

(b) A permanent committee***, except a federally-registered out-of-state permanent committee,*** shall pay an administrative fee to the registry in an amount equal to five percent (5%) of the ***contributions*** ~~[expenditures]~~, including independent expenditures, the permanent committee makes in support of or opposition to all candidates or slates of candidates for office. The payment for the administrative fee shall accompany each report a permanent committee makes to the registry which documents ***contributions and independent*** expenditures in support of or defeat of any candidate or slate of candidates during the reporting period covered by the report. The amount of administrative fees received by the registry from permanent committees for each reporting period shall be transferred to the State Treasurer for deposit in the election campaign fund established by KRS 121A.020.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed ***annually*** [~~semiannually~~], to be in the hands of the registry or postmarked ***not later than*** [~~within~~] ten (10) days after ***November 1 of each year*** [~~April 15 and October 15~~], until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit***, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election***. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material shall file with the registry a copy of the material or communication purchased by any person to support or oppose any slate of candidates or committee, which shall be provided by the purchaser for filing with the registry, and a copy of the receipt for the funds paid, and shall identify for the registry the person purchasing the services or material, and the source of the funds used to make the purchase if different than the purchaser. The information shall be reported to the registry not more than thirty (30) days after receiving the initial advertising or communications purchase for an election and every thirty (30) days thereafter if purchases are made in the ensuing period; except that reports of purchases shall be made to the registry every fourteen (14) days during the fifty-six (56) days before the primary and regular elections for Governor and Lieutenant Governor.

The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

Section 13. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots***,*** and paid-for television or radio announcements with reference to or intended for, the support or defeat of a candidate***, slate of candidates,*** or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the payer, or the committee, organization***,*** or association and its treasurer, on whose behalf the communication appears***; except that if paid for by a candidate, slate of candidates, or campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or campaign committee, whichever is applicable***. For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this section.

(2) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in subsection (1) of this section, that appear in their publications, however, nothing in subsection (1) of this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

Section 14. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, or KRS Chapter 121A, shall, for each offense, be guilty of a Class D felony. Violations of KRS 121.150 to 121.230 or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

  (a) Failure to make required reports or to file reports at times specified;

  (b) Making any false statement or report;

  (c) Giving money under a fictitious name; or

  (d) Making any communication to support or defeat a candidate or slate of candidates without identification of sponsorship.

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230 and KRS Chapter 121A.

(6) The Commonwealth's attorney ***or county attorney*** for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry ***and***~~[,]~~ shall prosecute any violator under this chapter or KRS Chapter 121A***.***~~[, and]~~ In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared

vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 15. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary or runoff primary election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum

threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; and

(d) An executive committee of a political party;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services***, if the person furnishing the goods, advertising, or services paid another person for their provision***;

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization***, if the person making the payment paid another person for their utilization***;

5. Expenditure in connection with any other activity undertaken independently of activities of a slate of candidates, of a committee, or of a contributing organization made or furnished for the purpose of influencing the results of an election.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;
2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300); or
3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Section 16. KRS 121A.020 is amended to read as follows:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.

(2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080(6), 121.170(5), 121A.060(6)(b), and 118.255(3).

(3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.

(5) ***In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3.,*** all slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry not ***later than five (5) days after the last day of the calendar month*** [~~less than every thirty (30) days~~] following the formation and registration of the committee or registration of the fundraiser and ***not later than five (5) days after the last day of each calendar month thereafter until*** [~~not less than every fourteen (14) days during~~] the fifty-six (56) days immediately preceding the primary election and the fifty-six (56) days immediately preceding the regular election of a year in which a Governor and Lieutenant Governor are elected ***when reports shall be made not less than every fourteen (14) days during that period*** [~~, in lieu of the reporting provisions of KRS 121.180(3)(a), (b), and (c)~~]. Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary. All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports every thirty (30) days thereafter until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4). All reports required by this subsection shall include all contributions deposited into and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.

(6) After each primary, each runoff primary, and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.

(7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 17. KRS 121A.060 is amended to read as follows:

(1) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(2) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio. The threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor that elects to be eligible to receive a transfer from the fund in a primary election shall be six hundred thousand dollars ($600,000) in qualifying contributions. The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No transfer from the fund shall be made for qualifying contributions which a slate of candidates may receive in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5). The threshold qualifying amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election; and

(d) Any other information reasonably necessary that is required by the registry.

(3) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) ***working*** ~~[calendar]~~ days after the slate submits the required documentation.

(4) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) ***working*** ~~[calendar]~~ days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(5) A separate determination and certification shall be made for a primary and a regular election.

(6) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(7) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(8) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(9) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(10) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(11) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(12) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary election unless at least one (1) additional slate of candidates seeking the same party's nomination for Governor and Lieutenant Governor in the primary election has received and deposited in its candidate campaign account funds in an amount not less than the threshold qualifying amount for the primary election as established in KRS 121A.060(2)(c). No qualifying slate of candidates seeking election to the offices of Governor and Lieutenant Governor in a regular election shall be eligible to receive transfers from the fund unless at least one (1) additional slate of candidates seeking election to the offices of Governor and Lieutenant Governor in the regular election has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount for the regular election as established in KRS 121A.060(2)(c).

Section 18. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

(a) The notification and declaration ***for a candidate for an office other than Governor or Lieutenant Governor***

shall include the following oath:

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the —— Party, I, —— (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at No. —— street in the City of ——, State of Kentucky, and that I am a registered —— (party) voter in —— precinct, City of ——; that I believe in the principles of the —— Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of —— (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw ***for reasons other than those stated in KRS 118.105(3)***; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the —— Party, I, ——, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at —— in the City of ——, State of Kentucky, and that I am a registered —— (party) voter in —— precinct, City of ——; and I, ——, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at —— in the City of ——, State of Kentucky, and that I am a registered —— (party) voter in —— precinct, City of ——; that we believe in the principles of the —— Party, and intend to support its principles and policies and vote for its nominees in the regular election at which a Governor and Lieutenant Governor are elected; that we will be or were affiliated with that party and will support or supported its nominees at the regular election preceding the year in which a Governor and Lieutenant Governor are elected, or will be or were prevented from doing so by reason of —— (state reason here for the candidate for Governor) —— (state reason here for the candidate for Lieutenant Governor); that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices.

The declaration shall be subscribed and sworn to by the persons making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 19. KRS 118.127 is amended to read as follows:

A ***slate of candidates*** [~~candidate~~] for Governor ***and Lieutenant Governor*** filing a notification and declaration pursuant to KRS 118.125 shall list on the notification and declaration the ***names*** [~~name~~] of the ***candidates*** [~~candidate~~] for ***Governor and*** Lieutenant Governor who shall jointly appear on the ballot [~~with him~~]. The slate of candidates for Governor and Lieutenant Governor shall be nominated jointly by the casting by each voter of a single vote applicable to both offices. No candidate for Governor or Lieutenant Governor shall appear individually on the ballot for the nomination he is seeking.

Section 20. The amendment to KRS 121.110 contained in Section 5 of this Act shall not operate to terminate the term of the existing appointment by the Lieutenant Governor. The successor to the existing board member appointed by the Lieutenant Governor shall be governed by the provisions of the amendment to KRS 121.110 contained in Section 5 of this Act.

The Committee Substitute to **SB 245** is as follows:

SB 245, AN ACT relating to the conduct and financing of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special

election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, slates of candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year;

(d) An executive committee of a political party; and

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services;

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities; or

(e) Expenditure in connection with any other activity undertaken independently of the activities of a candidate, slate of candidates, committee, or contributing organization made or furnished for the purpose of influencing the results of an election;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization; or

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS

118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for ***a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents*** [~~public office~~].

Section 2. KRS 121.025 is amended to read as follows:

No corporation ***authorized to do business in this state or in another state***, and no officer or agent of a corporation on its behalf, shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state, county, city, or district officer ***in this state***, or pay, promise, loan, or become liable in any way for any money or other valuable thing on behalf of any candidate for office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from a corporation with the understanding or agreement, either direct or implied, that he will contribute to any such candidate, or on his behalf, any part or all of such compensation, towards the nomination or election of such candidate.

Section 3. KRS 121.035 is amended to read as follows:

(1) No corporation organized or authorized to do business in this state ***or in another state*** shall, by itself or by or through an officer, agent, attorney, or employee, subscribe, give, procure or furnish, or afterwards reimburse or compensate in any way any person who has subscribed, given, procured, or furnished, any money, privilege, favor, or other thing of value to any political or quasi-political organization, or any officer or member thereof, to be used by such organization for the purpose of aiding, assisting, or advancing any candidate for public office ***in this state*** in any way whatever.

(2) No officer, agent, attorney, or employee of any corporation organized or authorized to do business in this state ***or in another state***, or person acting for or representing any such corporation, shall disburse, distribute, pay out, or in any way handle any money, funds, or other thing of value that belongs to or has been or is being furnished by any such corporation or any officer, agent, attorney, or employee thereof to be used or employed in any way for the purpose of aiding, assisting, or advancing any candidate for public office ***in this state*** in any way whatever.

(3) Nothing in this section shall be construed to prohibit a corporation from making contributions in support of a position on an issue of public importance.

Section 4. KRS 121.065 is amended to read as follows:

(1) No publisher of newspapers, magazines, handbills, or other printed matter, owner or lessor of billboards, radio or television station or network, or any other person, company, corporation, or organization offering its communications services for hire to the public shall be permitted to charge fees for political advertising in excess of ***the lowest rate*** [~~those~~] charged ***to*** other advertisers ***at the time the political advertising is purchased***.

(2) Political advertising means any communication intended to support or defeat a candidate for public office.

(3) An action to enjoin violations of this section shall be in the Circuit Court of the county where the complaining candidate resides.

Section 5. KRS 121.110 is amended to read as follows:

(1) There is hereby created as an independent agency of state government a Kentucky Registry of Election Finance. The registry shall be composed of seven (7) members appointed as provided herein. The registry shall remain independent of any other agency or department of state government. Members shall be at least twenty-five (25) years of age, registered voters in Kentucky, not announced candidates for public office, not officers of a political party's state central executive committee, shall not have been convicted of an election offense, and shall be persons of high ethical standards who have an active interest in promoting fair elections. Appointees shall be subject to Senate confirmation at the next regular session of the General Assembly following appointment, or at the next special session if included in the Governor's call. Appointees shall have full power to serve until any vote of nonconfirmation.

(2) Members of the registry shall be selected as follows:

  (a) One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the state central committee of the political party polling the largest vote at the last gubernatorial election.

  (b) One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the state central committee of the political party polling the second largest vote at the last gubernatorial election. The members appointed pursuant to subsections (a) and (b) of this section shall take office on August 15, 1990, for a term of one (1) year and their successors shall serve a term of four (4) years beginning August 15, 1991, or until their successors are appointed and qualified.

  (c) Two (2) other members shall be appointed by the Governor. Before making these appointments, the Governor shall solicit nominations from at least two (2) organizations which have demonstrated a nonpartisan interest in fair elections and informed voting. The Governor's solicitations and the replies shall be public records. The Governor shall give due consideration to such nominations. The two (2) members appointed pursuant to this subsection shall be one (1) from each of the two (2) political parties which polled the greatest number of votes at the last gubernatorial election. Members appointed pursuant to this subsection shall take office on August 15, 1988, for a term of four (4) years or until their successors are appointed and qualified and their successors shall serve a term of four (4) years.

(d) One (1) member shall be appointed by the ***Auditor of Public Accounts*** [~~Lieutenant Governor~~] after soliciting nominations as provided by subsection (c) of this section. The appointee shall be a member of one (1) of the two (2) political parties which polled the greatest number of votes at the last gubernatorial election. The member appointed pursuant to this subsection shall take office on August 15, ***1997*** [~~1990~~], for a term of ***four (4)*** [~~three (3)~~] years or until his successor is appointed and qualified and his successors shall serve a term of four (4) years.

(e) One (1) member shall be appointed by the Attorney General after soliciting nominations as provided by subsection (c) of this section. The appointee shall not be a member of the same political party as the person appointed by the ***Auditor of Public Accounts*** [~~Lieutenant Governor~~] pursuant to subsection (d) of this section. The member appointed pursuant to this subsection shall take office on August 15, 1990, for a term of four (4) years or until his successor is appointed and qualified and his successors shall serve a term of four (4) years.

(f) One (1) member shall be appointed by the Secretary of State after soliciting nominations as provided by subsection (c) of this section. The Secretary of State's appointment shall be without regard to political affiliation. The member appointed pursuant to this subsection shall take office on August 15, 1990, for a term of three (3) years or until his successor is appointed and qualified and his successors shall serve a term of four (4) years.

(3) The members of the registry shall select a chairman from among the appointed membership, effective August 15, 1990. The chairman shall serve in that capacity for one (1) year and shall be eligible for reelection. The chairman shall preside at all meetings and shall have all the powers and privileges of the other members.

(4) In the event of a vacancy in the office of any member, the vacancy shall be filled in the same manner as the vacating member's office was filled pursuant to subsection (2) of this section.

(5) The registry shall fix the place and time of its regular meetings by order duly recorded in its minutes. No action shall be taken without a quorum present. Special meetings shall be called by the chairman on his own initiative or on the written request of three (3) members. Members shall receive seven (7) days' written notice of a special meeting and the notice shall specify the purpose, time and place of the meeting, and no other matters may be considered, without a specific waiver by all the members.

(6) The members of the registry shall receive sixty-five dollars ($65) per diem, and shall be reimbursed for all reasonable and necessary expenses.

Section 6. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities; and

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to

carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the commissioner of the Department of Personnel and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, and parties, containing the total receipts and expenditures***;***~~[,]~~ and

1. For each contribution made by a permanent committee of any amount to a candidate or slate of candidates, the date, name***,*** and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** ~~[for each contribution of any amount made by a permanent committee, and]~~

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation***,*** and employer of each other contributor ~~[and the spouse of the contributor]~~ or, if the contributor ~~[or the spouse of the contributor]~~ is self-employed, the name under which he is doing business, and ***the*** amount contributed by each contributor, listed alphabetically~~[, shown to have contributed in excess of one hundred dollars ($100) to candidates and slates of candidates]~~;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of ***six (6)*** ~~[four (4)]~~ years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General ***or the appropriate Commonwealth's or county attorney*** any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall

be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

Section 7. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. In conducting any investigation, the registry shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.

(2) If the registry concludes that there is probable cause to believe that the law has been violated, the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(3) To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(4) If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, ***the registry shall, within five (5) days, submit a written request to the Chief Justice of the Kentucky Supreme Court to recommend not fewer than ten (10) nor more than fifteen (15) retired or former Justices or retired or former Judges of the Court of Justice who are qualified and willing to serve on a panel which shall conduct a hearing to determine if a violation has occurred. Upon receipt of the recommendations of the Chief Justice, the registry shall randomly select three (3) retired or former Justices or Judges from the list to conduct the hearing, which shall be held in accordance with the Kentucky Rules of Civil Procedure, or, if the Chief Justice declines to make recommendations, the registry, on its own initiative, shall request retired or former Justices or Judges to serve on the panel. The time and location of hearings shall be determined by the registry. Retired or former Justices or Judges selected to serve on a three (3) judge panel shall receive reimbursement from the registry for their reasonable and necessary expenses incurred as a result of the performance of their duties*** [~~a hearing before a panel of three (3) active or retired Justices or Judges of the Court of Justice appointed by the Chief Justice of the Supreme Court shall be held in accordance with the Kentucky Rules of Civil Procedure to determine if a violation has occurred~~]. The registry shall notify the complainant and the alleged violator that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. At the hearing, which shall be open to the public pursuant to KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator, and the alleged violator shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. The panel shall conclude its proceedings and render a decision not more than sixty (60) days after the date on which the panel was appointed to conduct a hearing. If the panel determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order, which shall be appealable to the Court of Appeals within thirty (30) days after the date of the order, to the violator to comply with any one (1) or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter. An appeal of an order of the panel shall be advanced on the docket to permit a timely decision.

(5) If the registry concludes that there is probable cause to believe that the campaign finance law has been violated knowingly, it shall refer the violation to the Attorney General ***or the appropriate Commonwealth's or county attorney*** for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon a motion timely filed, for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.

(6) Any person directly involved or affected by an action of the registry or the panel which is final, other than of a determination to refer a violation to the Attorney General ***or appropriate Commonwealth's or county attorney*** for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action.

(7) If judicial review is sought of any action of the registry or the panel relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 8. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. As used in this section, "independent expenditure" means one made for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, or the passage or defeat of a constitutional amendment or public question which will appear on the ballot and which is not made with any direct or indirect cooperation, consent, request, suggestion, or consultation involving a candidate, slate of candidates, campaign committee, political issues committee, or agent. ***No candidate, slate of candidates, campaign committee, political issues committee, nor anyone acting on their behalf shall have any communication with another person nor anyone on his behalf regarding that person's making of an independent expenditure on behalf of the candidate, slate, or committee prior to the time the independent expenditure is made.*** Any person making an "independent expenditure," as defined in this subsection, shall report these expenditures when the expenditures exceed five hundred dollars ($500) in the aggregate in any one (1) election, on ***a form*** [~~forms~~] provided by the registry ***and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made***.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by candidates, slates of candidates, campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or slate of candidates to continue regular personal contributions to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) ***in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.***

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on

or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than five hundred dollars ($500) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than five hundred dollars ($500) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) No candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) No slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) No candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) No candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this

section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(21) No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(22) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(23) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the thirty (30) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(24) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(25) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed thirty-five percent (35%) of the total contributions accepted by the candidate in any one (1) election cycle or five thousand dollars ($5,000) in any one (1) election cycle, whichever is the greater amount. For the purposes of this subsection, "election cycle" means the period between regular elections for the office a candidate seeks. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election cycle that is accepted from permanent committees shall be calculated as of the regular election day that ends the election cycle. Funds in a candidate's campaign account which are carried forward from one (1) election cycle to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election cycle for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than twenty (20) days following the election cycle so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than twenty (20) days after the end of the election cycle, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(26) No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 9. KRS 121.160 is amended to read as follows:

(1) ***As part of the filing papers*** each candidate or slate of candidates shall***, on a duplicate form prescribed and furnished by the registry,*** designate a campaign treasurer to act as their agent at the time and at the office with which they file as a candidate or slate of candidates [~~on a duplicate form prescribed and furnished by the registry~~] and until this requirement is met the candidate or slate of candidates shall be listed as their own treasurer and accountable as such. The candidate or slate of candidates may appoint themselves or any registered voter in Kentucky as ***the*** [~~this~~] campaign treasurer. The office with which the candidate or slate of candidates is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's or slate's campaign treasurer and shall attach the original to the candidate's or slate's filing papers. The office with which the candidate or slate of candidates files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank ***in which the primary campaign account shall be maintained*** [~~for all campaign funds~~] and deposit all contributions in that ***account*** [~~depository~~];

(b) Keep detailed and exact accounts of***:***

1. Contributions of any amount made by a permanent committee, [~~contributions in general and~~] by name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** [~~for each contribution of any amount made by a permanent committee, and~~]

2. Contributions in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, by the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each

contributor; and

3. Contributions in excess of one hundred dollars ($100) made to any candidate other than those specified in subparagraph 2., by name, address, age if under legal voting age, ***date of the contribution, amount of the contribution, and*** the employer ***and occupation*** of each other contributor***.*** [~~and the spouse of the contributor, or~~] If the contributor [~~or the spouse of the contributor~~] is self-employed, the name under which he is doing business ***shall be listed.*** [~~, and occupation where the contribution exceeds one hundred dollars ($100);~~] The occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate or slate of candidates. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of the expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of six (6) years from the date he files his last report under KRS 121.180(3)***(b)1.***[~~(a)~~]; and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate or slate of candidates may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate or slate of candidates shall within three (3) days after receiving notice thereof by certified mail, [~~return receipt requested,~~] appoint a successor and shall file his name and address with the registry. The candidate, or slate shall be accountable as their own campaign treasurer if they fail to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate or slate of candidates, but all reports shall be made separately for each individual candidate or slate.

(6) The candidate or slate of candidates may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and shall comply with the reporting provisions of KRS 121.180 and administrative regulations promulgated by the registry.

Section 10. KRS 121.170 is amended to read as follows:

(1) Any committee***, except a federally-registered out-of-state permanent committee,*** organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry***; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127***. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for ***statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents*** [~~elected office~~] shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) and KRS ***121A.020(5)*** [~~121A.010(5)~~].

(3) All provisions of KRS 121.160 and 121A.070 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered out-of-state permanent committee, and a person acting as a campaign fundraiser.

(4) The chairman of a committee and the campaign treasurer shall be separate persons.

(5) A permanent committee***, except a federally-registered out-of-state permanent committee,*** shall pay an administrative fee of two hundred dollars ($200) to the registry at the time it files its registration papers. A permanent committee***, except a federally-registered out-of-state permanent committee,*** shall pay an administrative fee of two hundred dollars ($200) to the registry no later than the last day of the first calendar quarter following the year in which it registers with the registry and each succeeding year thereafter until the permanent committee terminates. The amount of administrative fees received by the registry from permanent committees shall be transferred to the State Treasurer for deposit in the election campaign fund established by KRS 121A.020.

(6) Any federally-registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee

Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(7) Notwithstanding any provision of law to the contrary, a contribution made by a federally~~-~~registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. Sec. 441b, 11 C.F.R. Sec. 104.10, 11 C.F.R. Sec. 106.6, and 11 C.F.R. Sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

(8) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

Section 11. KRS 121.175 is amended to read as follows:

(1) No candidate, committee, or contributing organization shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures. "Allowable campaign expenditures" means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot and includes, but is not limited to, expenditures for staff salaries, ***gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally,*** advertising, office space, necessary travel, campaign paraphernalia, ***purchases of advertisements in athletic and scholastic publications,*** communications with ***constituents or*** prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign. "Allowable campaign expenditures" does not include expenditures of funds in a campaign account for any purpose made unlawful by other provisions of the Kentucky Revised Statutes or which would bestow a private pecuniary benefit, except for payment of the reasonable value of goods and services provided upon a candidate, member of the candidate's family, committee, or contributing organization, or any of their employees, paid or unpaid, including: tickets to an event which is unrelated to a political campaign or candidacy; items of personal property for distribution to prospective voters except items bearing the name, likeness, or logo of a candidate or a campaign-related communication; expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and equipment or appliances the primary use of which is for purposes outside of the campaign. The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his campaign account. A member of the General Assembly may utilize funds in his campaign account to purchase admission tickets for political party functions, to purchase items with a value of not in excess of one hundred dollars ($100) for donation to a political party for auctions and fundraisers, and to participate in or support other events sponsored by a political party.

(2) By December 31, 1993, the registry shall promulgate administrative regulations to implement and enforce the provisions of subsection (1).

(3) In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:

(a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000); and

(b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000).

Section 12. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, [~~or campaign treasurer,~~] or political issues committee shall be exempt from filing any pre-election finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman [~~or treasurer~~] files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. ***For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection.*** A separate form shall be required for each primary,

runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, ~~[campaign treasurer,]~~ or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, ~~[campaign treasurer,]~~ or political issues committee chairman ~~[or treasurer]~~ files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of two hundred fifty dollars ($250) in any one (1) election. ***For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection.*** A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate ***or***~~[,]~~ slate of candidates~~[, campaign treasurer, or political issues committee chairman or treasurer]~~ shall file a request for exemption not later than the deadline for filing nomination papers and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and ~~[it]~~ shall be bound by its terms unless ***rescinded*** ~~[it rescinds it]~~ in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate ***or***~~[,]~~ slate of candidates~~[, campaign treasurer, or political issues committee chairman or treasurer]~~ shall file a request for exemption not later than ten (10) days after the date of the preceding primary election, or runoff primary, if one is held, and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date of the primary election, or runoff primary, if one is held. For a special election, a candidate ***or***~~[,]~~ slate of candidates~~[, or campaign treasurer]~~ shall file a request for exemption not later than ten (10) days after ***the candidate or slate of candidates is*** ~~[being]~~ nominated for a special election~~[,]~~ and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. ***A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.***

(d) ***A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.***

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. A candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in paragraph (d) of this subsection.

(g) Any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death,

disability, or disqualification, the candidate or slate of candidates may exercise the reversion rights provided in paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) The campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(k) 1. Any candidate, slate of candidates, ~~[campaign treasurer,]~~ or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), ~~[or]~~ (b)***, or (e)*** of this subsection that accepts contributions or ***makes expenditures*** ~~[expends]~~, or whose campaign treasurer accepts contributions or ***makes expenditures*** ~~[expends]~~, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, ***in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.***

2. A candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), or (e) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony ~~[in addition to other penalties prescribed by law, in the case of a candidate or slate of candidates, upon a final determination that a violation occurred, be ineligible as a candidate or slate of candidates for the office sought, the nomination or election shall be void, and a vacancy shall be declared]~~.

(2) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source***, and expenditures authorized, incurred, or made,*** since the date of the last report, including***:***

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** ~~[for each contribution of any amount made by a permanent committee, and]~~

(b) For other contributions in excess of one hundred dollars ($100), the full name***,*** ~~[and]~~ address***,*** ~~[of each other contributor, and the]~~ age if less than the legal voting age, the ***date of the contribution, the amount of the contribution, and the*** employer ***and occupation*** of each contributor***.*** ~~[and the spouse of the contributor or,]~~ If the contributor ~~[or the spouse of the contributor]~~ is self-employed, the name under which he is doing business ***shall be listed;*** ~~[, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item.]~~

(c) The total amount of cash contributions received during the reporting period; and

(d) A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each regular election.

(3) ***(a)*** Except for candidates or slates of candidates, campaign ***committees*** ~~[treasurers]~~, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, ***and expenditures authorized, incurred, and made,*** since the date of the last report, including***:***

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** ~~[for each contribution of any amount made by a permanent committee, and]~~

2. ***For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and***

3. ***For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee,*** the full name***,*** ~~[and]~~ address***,*** ~~[of each other contributor, and the]~~ age if less than the legal voting age, ***the date of the contribution, the amount of the contribution, and*** the employer ***and occupation*** of each other contributor***.*** ~~[and the spouse of the contributor or,]~~ If the contributor ~~[or spouse of the contributor]~~ is self-employed, the name under which he is doing business ***shall be listed;*** ~~[, and occupation of each person or group contributing in excess of one hundred dollars ($100), to a candidate, slate of candidates, or political issues committee the amount contributed by each and the date of the contribution, whether the contribution was in cash, and]~~

4. ***The total amount of cash contributions received during the reporting period; and***

5. A complete statement of all expenditures authorized, incurred, or made. ~~[The total amount of cash contributions received during the reporting period shall be listed as a separate item.]~~ The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1.~~[(a)]~~ Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;~~.~~

2.~~[(b)]~~ All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

3.~~[(c)]~~ All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the ***fifteenth*** ~~[twelfth]~~ day preceding the date of the election; and

4.~~[(d)]~~ All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) ***Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section,*** all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above ***from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office*** exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount ***of the purchase*** ~~[purchased shall be reported to the registry]~~. ***When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase.*** The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years

following the date of the election.

(6) (a) Each permanent committee***, except a federally-registered out-of-state permanent committee***, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, ***and all expenditures authorized, incurred, or made,*** since the date of the last report, including***:***

1. ***For each contribution of any amount made by a permanent committee,*** the name and business address of the permanent committee, ***the date of the contribution,*** the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee***;*** [~~for each contribution of any amount made by a permanent committee, and~~]

2. ***For other contributions in excess of one hundred dollars ($100),*** the full name***,*** [~~and~~] address***,*** [~~of each other contributor, and the~~] age if under the legal voting age, ***the date of the contribution, the amount of the contribution, and the*** employer ***and occupation*** of each contributor***,*** [~~and the spouse of the contributor or,~~] If the contributor [~~or the spouse of the contributor~~] is self-employed, the name under which he is doing business ***shall be listed;***[~~, and occupation of each person or group contributing in excess of one hundred dollars ($100) and if in cash it shall be so stated.~~]

3. An aggregate amount of cash contributions***,*** [~~shall also be reported,~~] the amount contributed by each ***contributor,*** and the date of ***each*** [~~the~~] contribution***;***[~~,~~] and

4. A complete statement of all expenditures authorized, incurred***,*** or made, including "independent expenditures" as defined in KRS 121.150(1). This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline; and

(b) A permanent committee***, except a federally-registered out-of-state permanent committee,*** shall pay an administrative fee to the registry in an amount equal to five percent (5%) of the ***contributions*** [~~expenditures~~], including independent expenditures, the permanent committee makes in support of or opposition to all candidates or slates of candidates for office. The payment for the administrative fee shall accompany each report a permanent committee makes to the registry which documents ***contributions and independent*** expenditures in support of or defeat of any candidate or slate of candidates during the reporting period covered by the report. The amount of administrative fees received by the registry from permanent committees for each reporting period shall be transferred to the State Treasurer for deposit in the election campaign fund established by KRS 121A.020.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed ***annually*** [~~semiannually~~], to be in the hands of the registry or postmarked ***not later than*** [~~within~~] ten (10) days after ***November 1 of each year*** [~~April 15 and October 15~~], until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit***, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election***. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material shall file with the registry a copy of the material or communication purchased by any person to support or oppose any slate of candidates or committee, which shall be provided by the purchaser for filing with the registry, and a copy of the receipt for the funds paid, and shall identify for the registry the person purchasing the services or material, and the source of the funds used to make the purchase if different than the purchaser. The information shall be reported to the registry not more than thirty (30) days after receiving the initial advertising or communications purchase for an election and every thirty (30) days thereafter if purchases are made in the ensuing period; except that reports of purchases shall be made to the registry every fourteen (14) days during the fifty-six (56) days before the primary and regular elections for Governor and Lieutenant Governor. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

Section 13. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots, and paid-for television or radio announcements with reference to or intended for, the support or defeat of a candidate***, slate of candidates,*** or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the payer, or the committee, organization, or association and its treasurer, on whose behalf the communication appears***; except that if paid for by a candidate, slate of candidates, or campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or campaign committee, whichever is applicable***. For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this section.

(2) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in subsection (1) of this section, that appear in their publications, however, nothing in subsection (1) of this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

Section 14. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230,

121.310(1), 121.320, or KRS Chapter 121A, shall, for each offense, be guilty of a Class D felony. Violations of KRS 121.150 to 121.230 or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate or slate of candidates without identification of sponsorship.

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230 and KRS Chapter 121A.

(6) The Commonwealth's attorney ***or county attorney*** for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry ***and***[~~,~~] shall prosecute any violator under this chapter or KRS Chapter 121A***.***[~~, and~~] In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or

appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

Section 15. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary or runoff primary election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; and

(d) An executive committee of a political party;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services***, if the person furnishing the goods, advertising, or services paid another person for their provision***;

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization***, if the person making the payment paid another person for their utilization***;

5. Expenditure in connection with any other activity undertaken independently of activities of a slate of candidates, of a committee, or of a contributing organization made or furnished for the purpose of influencing the results of an election.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300); or

3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Section 16. KRS 121A.020 is amended to read as follows:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.

(2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080(6), 121.170(5), 121A.060(6)(b), and 118.255(3).

(3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.

(5) ***In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3.,*** all slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry not ***later than five (5) days after the last day of the calendar month*** ~~[less than every thirty (30) days]~~ following the formation and

registration of the committee or registration of the fundraiser and ***not later than five (5) days after the last day of each calendar month thereafter until*** [~~not less than every fourteen (14) days during~~] the fifty-six (56) days immediately preceding the primary election and the fifty-six (56) days immediately preceding the regular election of a year in which a Governor and Lieutenant Governor are elected ***when reports shall be made not less than every fourteen (14) days during that period*** [~~, in lieu of the reporting provisions of KRS 121.180(3)(a), (b), and (c)~~]. Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary. All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports every thirty (30) days thereafter until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4). All reports required by this subsection shall include all contributions deposited into and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.

(6) After each primary, each runoff primary, and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.

(7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 17. KRS 121A.060 is amended to read as follows:

(1) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(2) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio. The threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor that elects to be eligible to receive a transfer from the fund in a primary election shall be six hundred thousand dollars ($600,000) in qualifying contributions. The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No transfer from the fund shall be made for qualifying contributions which a slate of candidates may receive in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5). The threshold qualifying amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election; and

(d) Any other information reasonably necessary that is required by the registry.

(3) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) ***working*** [~~calendar~~] days after the slate submits the required documentation.

(4) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) ***working*** [~~calendar~~] days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(5) A separate determination and certification shall be made for a primary and a regular election.

(6) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(7) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(8) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the

certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(9) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(10) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(11) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(12) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary election unless at least one (1) additional slate of candidates seeking the same party's nomination for Governor and Lieutenant Governor in the primary election has received and deposited in its candidate campaign account funds in an amount not less than the threshold qualifying amount for the primary election as established in KRS 121A.060(2)(c). No qualifying slate of candidates seeking election to the offices of Governor and Lieutenant Governor in a regular election shall be eligible to receive transfers from the fund unless at least one (1) additional slate of candidates seeking election to the offices of Governor and Lieutenant Governor in the regular election has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount for the regular election as established in KRS 121A.060(2)(c).

Section 18. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

(a) The notification and declaration ***for a candidate for an office other than Governor or Lieutenant Governor*** shall include the following oath:

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the —— Party, I, —— (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at No. —— street in the City of ——, State of Kentucky, and that I am a registered —— (party) voter in —— precinct, City of ——; that I believe in the principles of the —— Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of —— (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw ***for reasons other than those stated in KRS 118.105(3)***; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the —— Party, I, ——, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at —— in the City of ——, State of Kentucky, and that I am a registered —— (party) voter in —— precinct, City of ——; and I, ——, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at —— in the City of ——, State of Kentucky, and that I am a registered —— (party) voter in —— precinct, City of ——; that we believe in the principles of the —— Party, and intend to support its principles and policies and vote for its nominees in the regular election at which a Governor and Lieutenant Governor are elected; that we will be or were affiliated with that party and will support or supported its nominees at the regular election preceding the year in which

a Governor and Lieutenant Governor are elected, or will be or were prevented from doing so by reason of ---- - (state reason here for the candidate for Governor) ------ (state reason here for the candidate for Lieutenant Governor); that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices.

The declaration shall be subscribed and sworn to by the persons making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 19. KRS 118.127 is amended to read as follows:

A ***slate of candidates*** [~~candidate~~] for Governor ***and Lieutenant Governor*** filing a notification and declaration pursuant to KRS 118.125 shall list on the notification and declaration the ***names*** [~~name~~] of the ***candidates*** [~~candidate~~] for ***Governor and*** Lieutenant Governor who shall jointly appear on the ballot [~~with him~~]. The slate of candidates for Governor and Lieutenant Governor shall be nominated jointly by the casting by each voter of a single vote applicable to both offices. No candidate for Governor or Lieutenant Governor shall appear individually on the ballot for the nomination he is seeking.

Section 20. The amendment to KRS 121.110 contained in Section 5 of this Act shall not operate to terminate the term of the existing appointment by the Lieutenant Governor. The successor to the existing board member appointed by the Lieutenant Governor shall be governed by the provisions of the amendment to KRS 121.110 contained in Section 5 of this Act.

SB 256, AN ACT proposing to amend the Constitution of Kentucky relative to the organizational structure and financing of local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. IT IS PROPOSED THAT THE PRESENT CONSTITUTION OF KENTUCKY BE AMENDED BY REPEALING PRESENT SECTION 156 AND ENACTING IN LIEU THEREOF PROVISIONS TO READ AND BE NUMBERED AS FOLLOWS:

Section 156a. The General Assembly may provide for the creation, alteration of boundaries, consolidation, merger, dissolution, government, functions, and officers of cities. The General Assembly shall create such classifications of cities as it deems necessary based on population, tax base, form of government, geography, or any other reasonable basis and enact legislation relating to the classifications. All legislation relating to cities of a certain classification shall apply equally to all cities within the same classification. The classification of all cities and the law pertaining to the classifications in effect at the time of adoption of this section shall remain in effect until otherwise provided by law.

Section 156b. The General Assembly may provide by general law that cities may exercise any power and perform any function within their boundaries that is in furtherance of a public purpose of a city and not in conflict with a constitutional provision or statute.

Section 2. It is proposed that Section 157 of the Constitution of Kentucky be amended to read as follows:

The tax rate of cities, [~~towns,~~] counties, ***and*** taxing districts [~~and other municipalities~~], for other than school purposes, shall not, at any time, exceed the following rates upon the value of the taxable property therein[~~, viz.~~]: For all [~~towns or~~] cities having a population of fifteen thousand or more, one dollar and fifty cents on the hundred dollars; for all [~~towns or~~] cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars; for all [~~towns or~~] cities having less than ten thousand, seventy-five cents on the hundred dollars; and for counties and taxing districts, fifty cents on the hundred dollars[~~; unless it should be necessary to enable such city, town, county, or taxing district to pay the interest on, and provide a sinking fund for the extinction of, indebtedness contracted before the adoption of this Constitution. No county, city, town, taxing district, or other municipality, shall be authorized or permitted to become indebted, in any manner or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year, without the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose; and any indebtedness contracted in violation of this section shall be void. Nor shall such contract be enforceable by the person with whom made; nor shall such municipality ever be authorized to assume the same~~)].

SECTION 3. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 157b. Prior to each fiscal year, the legislative body of each city, county, and taxing district shall adopt a budget showing total expected revenues and expenditures for the fiscal year. No city, county, or taxing district shall expend any funds in any fiscal year in excess of the revenues for that fiscal year. A city, county, or taxing district may amend its

budget for a fiscal year, but the revised expenditures may not exceed the revised revenues. As used in this section, "revenues" shall mean all income from every source, including unencumbered reserves carried over from the previous fiscal year, and "expenditures" shall mean all funds to be paid out for expenses of the city, county, or taxing district during the fiscal year, including amounts necessary to pay the principal and interest due during the fiscal year on any debt.

Section 4. It is proposed that Section 158 of the Constitution of Kentucky be amended to read as follows:

Cities ~~[The respective cities]~~, towns, counties, ***and*** taxing districts~~[, and municipalities]~~ shall not ~~[be authorized or permitted to]~~ incur indebtedness to an amount~~[, including existing indebtedness, in the aggregate]~~ exceeding the following ~~[named]~~ maximum percentages on the value of the taxable property therein, to be estimated by ~~[the assessment next before]~~ the last assessment previous to the incurring of the indebtedness~~[, viz.]~~: Cities ~~[of the first and second classes, and of the third class]~~ having a population ***of*** ~~[exceeding]~~ fifteen thousand ***or more***, ten ***percent (10%)*** ~~[per centum]~~; cities ~~[of the third class]~~ having a population of less than fifteen thousand ***but not less than three thousand***, ~~[and cities and towns of the fourth class,]~~ five ***percent (5%)*** ~~[per centum]~~; cities ***having a population of less than three thousand*** ~~[and towns of the fifth and sixth classes]~~, three ***percent (3%)*** ~~[per centum]~~; and counties ***and***~~[,]~~ taxing districts ~~[and other municipalities]~~, two ***percent (2%)*** ~~[per centum: Provided, Any city, town, county, taxing district or other municipality may contract an indebtedness in excess of such limitations when the same has been authorized under laws in force prior to the adoption of this Constitution, or when necessary for the completion of and payment for a public improvement undertaken and not completed and paid for at the time of the adoption of this Constitution: And provided further, If, at the time of the adoption of this Constitution, the aggregate indebtedness, bonded or floating, of any city, town, county, taxing district, or other municipality, including that which it has been or may be authorized to contract as herein provided, shall exceed the limit herein prescribed, then no such city or town shall be authorized or permitted to increase its indebtedness in an amount exceeding two per centum, and no such county, taxing district or other municipality, in an amount exceeding one per centum, in the aggregate upon the value of the taxable property therein, to be ascertained as herein provided, until the aggregate of its indebtedness shall have been reduced below the limit herein fixed, and thereafter it shall not exceed the limit]~~, unless in case of emergency, the public health or safety should so require. Nothing ~~[herein]~~ shall prevent the issue of renewal bonds, or bonds to fund the floating indebtedness of any city, ~~[town,]~~ county, ***or*** taxing district ~~[or other municipality]~~. ***Subject to the limits and conditions set forth in this section and elsewhere in this Constitution, the General Assembly shall have the power to establish additional limits on indebtedness and conditions under which debt may be incurred by cities, counties, and taxing districts.***

Section 5. It is further proposed as a part of this amendment and as a transitional provision for the purposes of this amendment, that any contract or legally binding obligation of a local government shall remain unaffected until the contract or obligation is renegotiated or expires.

Section 6. It is proposed that the present Constitution of Kentucky be amended by repealing the following section:

156 Cities divided into six classes -- General laws to be made for each class -- Population limits for classes -- Assignment to classes -- Organization of cities.

Section 7. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **SB 256** is as follows:

SB 256, AN ACT proposing to amend the Constitution of Kentucky relative to the organizational structure and financing of local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. IT IS PROPOSED THAT THE PRESENT CONSTITUTION OF KENTUCKY BE AMENDED BY REPEALING PRESENT SECTION 156 AND ENACTING IN LIEU THEREOF PROVISIONS TO READ AND BE NUMBERED AS FOLLOWS:

Section 156a. The General Assembly may provide for the creation, alteration of boundaries, consolidation, merger, dissolution, government, functions, and officers of cities. The General Assembly shall create such classifications of cities as it deems necessary based on population, tax base, form of government, geography, or any other reasonable basis and enact legislation relating to the classifications. All legislation relating to cities of a certain classification shall apply equally to all cities within the same classification. The classification of all cities and the law pertaining to the classifications in effect at the time of adoption of this section shall remain in effect until otherwise provided by law.

Section 156b. The General Assembly may provide by general law that cities may exercise any power and perform any function within their boundaries that is in furtherance of a public purpose of a city and not in conflict with a constitutional provision or statute.

Section 2. It is proposed that Section 157 of the Constitution of Kentucky be amended to read as follows:

The tax rate of cities, ~~[towns,]~~ counties, ***and*** taxing districts ~~[and other municipalities]~~, for other than school purposes, shall not, at any time, exceed the following rates upon the value of the taxable property therein~~[, viz.]~~: For all ~~[towns or]~~ cities having a population of fifteen thousand or more, one dollar and fifty cents on the hundred dollars; for all ~~[towns or]~~ cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars; for all ~~[towns or]~~ cities having less than ten thousand, seventy-five cents on the hundred dollars; and for counties and taxing districts, fifty cents on the hundred dollars~~[; unless it should be necessary to enable such city, town, county, or taxing district to pay the interest on, and provide a sinking fund for the extinction of, indebtedness contracted before the adoption of this Constitution. No county, city, town, taxing district, or other municipality, shall be authorized or permitted to become indebted, in any manner or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year, without the assent of two thirds of the voters thereof, voting at an election to be held for that purpose; and any indebtedness contracted in violation of this section shall be void. Nor shall such contract be enforceable by the person with whom made; nor shall such municipality ever be authorized to assume the same]~~.

SECTION 3. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED AS FOLLOWS:

Section 157b. Prior to each fiscal year, the legislative body of each city, county, and taxing district shall adopt a budget showing total expected revenues and expenditures for the fiscal year. No city, county, or taxing district shall expend any funds in any fiscal year in excess of the revenues for that fiscal year. A city, county, or taxing district may amend its budget for a fiscal year, but the revised expenditures may not exceed the revised revenues. As used in this section, "revenues" shall mean all income from every source, including unencumbered reserves carried over from the previous fiscal year, and "expenditures" shall mean all funds to be paid out for expenses of the city, county, or taxing district during the fiscal year, including amounts necessary to pay the principal and interest due during the fiscal year on any debt.

Section 4. It is proposed that Section 158 of the Constitution of Kentucky be amended to read as follows:

Cities ~~[The respective cities, towns]~~, counties, ***and*** taxing districts~~[, and municipalities]~~ shall not ~~[be authorized or permitted to]~~ incur indebtedness to an amount~~[, including existing indebtedness, in the aggregate]~~ exceeding the following ~~[named]~~ maximum percentages on the value of the taxable property therein, to be estimated by ~~[the assessment next before]~~ the last assessment previous to the incurring of the indebtedness~~[, viz.]~~: Cities ~~[of the first and second classes, and of the third class]~~ having a population ***of*** ~~[exceeding]~~ fifteen thousand ***or more***, ten ***percent (10%)*** ~~[per centum]~~; cities ~~[of the third class]~~ having a population of less than fifteen thousand ***but not less than three thousand***, ~~[and cities and towns of the fourth class,]~~ five ***percent (5%)*** ~~[per centum]~~; cities ***having a population of less than three thousand*** ~~[and towns of the fifth and sixth classes]~~, three ***percent (3%)*** ~~[per centum]~~; and counties ***and***~~[,]~~ taxing districts ~~[and other municipalities]~~, two ***percent (2%)*** ~~[per centum: Provided, Any city, town, county, taxing district or other municipality may contract an indebtedness in excess of such limitations when the same has been authorized under laws in force prior to the adoption of this Constitution, or when necessary for the completion of and payment for a public improvement undertaken and not completed and paid for at the time of the adoption of this Constitution: And provided further, If, at the time of the adoption of this Constitution, the aggregate indebtedness, bonded or floating, of any city, town, county, taxing district, or other municipality, including that which it has been or may be authorized to contract as herein provided, shall exceed the limit herein prescribed, then no such city or town shall be authorized or permitted to increase its indebtedness in an amount exceeding two per centum, and no such county, taxing district or other municipality, in an amount exceeding one per centum, in the aggregate upon the value of the taxable property therein, to be ascertained as herein provided, until the aggregate of its indebtedness shall have been reduced below the limit herein fixed, and thereafter it shall not exceed the limit]~~, unless in case of emergency, the public health or safety should so require. Nothing ~~[herein]~~ shall prevent the issue of renewal bonds, or bonds to fund the floating indebtedness of any city, ~~[town,]~~ county, ***or*** taxing district ~~[or other municipality]~~. ***Subject to the limits and conditions set forth in this section and elsewhere in this Constitution, the General Assembly shall have the power to establish additional limits on indebtedness and conditions under which debt may be incurred by cities, counties, and taxing districts.***

Section 5. It is further proposed as a part of this amendment and as a transitional provision for the purposes of this amendment, that any contract or legally binding obligation of a local government shall remain unaffected until the contract or obligation is renegotiated or expires.

Section 6. It is proposed that the present Constitution of Kentucky be amended by repealing the following section:

156 Cities divided into six classes -- General laws to be made for each class -- Population limits for classes -- Assignment to classes -- Organization of cities.

Section 7. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

SB 272, AN ACT proposing an amendment to Sections 36, 42, and 46 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet on the first Tuesday after the first Monday in January in odd-numbered years for a period not to exceed ***thirty*** ~~[ten]~~ legislative days***, exclusive of Sundays, legal holidays, or any day on which neither House meets,*** for the purposes of electing legislative leaders, adopting rules of procedure***,*** ~~[and the]~~ organizing of committees***, and***

considering all other matters which may be considered during a regular session occurring in an even-numbered year except the proposal of amendments to this Constitution or the calling of a constitutional convention. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session, and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

The members of the General Assembly shall severally receive from the State Treasury compensation for their services: Provided, No change shall take effect during the session at which it is made; ***nor shall a session occurring in odd-numbered years extend beyond February 25;*** nor shall a session of the General Assembly ***occurring in even-numbered years*** continue beyond sixty legislative days, exclusive of Sundays, legal holidays or any day on which neither House meets, except that no regular session shall extend beyond April 15 of even-numbered years; but this limitation as to length of session shall not apply to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day.

Section 3. It is proposed that Section 46 of the Constitution of Kentucky be amended to read as follows:

During the first full calendar week of each month the General Assembly is not in session, interim- standing committees of the General Assembly shall meet for three days, as scheduled by the Legislative Research Commission, during which they may take action on bills referred to the committees and report them to their respective chambers where the bills shall await action by the appropriate chamber when the General Assembly next convenes. No bill shall be considered for final passage unless the same has been reported by a committee and printed for the use of the members. Every bill shall be read at length on three different days in each House, but the second and third readings may be dispensed with by a majority of all the members elected to the House in which the bill is pending. But whenever a committee refuses or fails to report a bill submitted to it in a reasonable time, the same may be called up by any member, and be considered in the same manner it would have been considered if it had been reported. No bill shall become a law unless, on its final passage, it receives the votes of at least two-fifths of the members elected to each House, and a majority of the members voting, the vote to be taken by yeas and nays and entered in the journal: Provided, Any act or resolution for the appropriation of money or the creation of debt shall, on its final passage, receive the votes of a majority of all the members elected to each House.

Section 4. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

SB 348, AN ACT relating to state senatorial districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 5.121 is amended to read as follows:

The Twenty-first Senatorial District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
CLAY	A101		MANCHESTER			
CLAY	A102		PORTERSBURG			
CLAY	A103		WHITE BRANCH			
CLAY	A104		HARTS BRANCH			
CLAY	A105		HORSE CREEK			
CLAY	A106		GARRARD			
CLAY	A107		EAST MANCHESTER			
CLAY	A108		PIGEON ROOST			
CLAY	B101		FOGERTOWN			
CLAY	B102		SEXTONS CREEK			
CLAY	B103		BURNING SPRING			
CLAY	B104		GREENBRIAR			
CLAY	B105		PIN HOOK			
CLAY	C101		ALLEN			
CLAY	***C102***		***ONEIDA***			
CLAY	C103		SOUTH FORK			
CLAY	D101		BIG CREEK			
CLAY	D102		FLAT CREEK			

CLAY	D103	GOOSE ROCK
CLAY	D104	BRIGHT SHADE
KNOX		
LAUREL		
LESLIE	A101	BIG CREEK
LESLIE	A103	ROCKHOUSE
LESLIE	A104	HYDEN-JEFF
LESLIE	A105	BULLSKIN NO.17
LESLIE	B101	JACKS CREEK
LESLIE	D101	HYDEN #1
LESLIE	D102	HYDEN #2
~~[LESLIE~~	~~D104~~	~~MIDWAY]~~

Section 2. KRS 5.127 is amended to read as follows:

The Twenty-seventh Senatorial District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
~~[CLAY~~	~~C102~~		~~ONEIDA]~~			
ELLIOTT	A101		SANDY HOOK NO. 1			
ELLIOTT	B101		SANDY HOOK NO. 2			
ELLIOTT	C101		WALNUT GROVE NO. 3			
ELLIOTT	E101		CRACKNERNECK NO. 5			
JACKSON						
LEE						
MAGOFFIN	A101		SALYERSVILLE WARD #2			
MAGOFFIN	A102		BLOOMINGTON			
MAGOFFIN	A103		JOHNSON FORK			
MAGOFFIN	A104		CARTY BRANCH			
MAGOFFIN	B101		SALYERSVILLE WARD #1			
MAGOFFIN	C101		MEADOWS			
MAGOFFIN	C102		WIREMAN			
MAGOFFIN	C103		LAKEVILLE			
MAGOFFIN	C104		ATKINSON			
MENIFEE						
MORGAN						
OWSLEY						
ROCKCASTLE						
ROWAN						
WOLFE						

Section 3. KRS 5.129 is amended to read as follows:

The Twenty-ninth Senatorial District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
BREATHITT						
FLOYD	A103		DEPOT			
FLOYD	A105		CLIFF			
FLOYD	A107		AUXIER			
FLOYD	A108		MIDDLE CREEK			
FLOYD	A111		JIM BANKS			

FLOYD	A112	ROUGH & TOUGH
FLOYD	A113	ABBOTT
FLOYD	A114	JACK ALLEN
FLOYD	A116	CLIFF 2
FLOYD	B101	JOHN POSSUM
FLOYD	B102	MAYTOWN
FLOYD	B103	BOSCO
FLOYD	B104	GARRETT/ROCK FORK
FLOYD	B105	LACKEY/WAYLAND
FLOYD	B108	BEECH GROVE
FLOYD	B109	MOUTH OF BEAVER
FLOYD	C101	MARTIN
FLOYD	C102	HALBERT
FLOYD	C103	DRIFT
FLOYD	C104	JOHN ANT
FLOYD	C105	GEARHEART
FLOYD	C106	CLEAR CREEK
FLOYD	C107	JACKS CREEK
FLOYD	C108	LEE HALL
FLOYD	C109	MELVIN
FLOYD	C110	WEEKSBURY
FLOYD	C111	ARKANSAS
FLOYD	C112	FRASURES CREEK
FLOYD	D101	ANTIOCH
FLOYD	D102	TICKEY
FLOYD	D103	TOLER
FLOYD	D105	LITTLE MUD
FLOYD	D109	BRANHAMS CREEK
FLOYD	D110	HEAD OF MUD
KNOTT		
LESLIE	C101	WOOTON
LESLIE	C103	WOLF
LESLIE	D103	WILDER
LESLIE	***D104***	***MIDWAY***
PERRY		

The Committee on State Government reported **HR 107, SB 72, SB 93,** with Committee Amendment attached thereto, **SB 246, SB 262,** with Committee Substitute attached thereto, **SB 277,** with Committee Substitute and Committee Amendment attached thereto, **SB 289, SB 344, SB 367** and **SCR 74** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 107, A RESOLUTION to encourage the President and the United States Congress to re-examine United States foreign policy towards Ethiopia.

WHEREAS, the noble people of Ethiopia have developed and nourished a proud and distinguished culture that has endured for three millennia; and

WHEREAS, Ethiopia has had a long and productive friendship with the United States of America; and

WHEREAS, over the past two decades, the brave and gentle people of Ethiopia have been devastated by famine and civil war; and

WHEREAS, the people of the United States have responded generously and magnificently to the plight of Ethiopian famine victims through the provision of humanitarian aid; and

WHEREAS, a glimmer of hope and peace sparked recently due to the lessening of military conflict in that beautiful country; and

WHEREAS, Ethiopia is poised at a crucial juncture in its history since it is making a transition from military rule to democracy; and

WHEREAS, the winds of democratic change have blown dramatically and ferociously across the former Soviet Union, Eastern Europe, Latin America, many parts of Africa, and now to Ethiopia; and

WHEREAS, the people of Ethiopia are aspiring to resolve their complicated problems through the formation and utilization of democratic institutions and maximum citizen input; and

WHEREAS, the basic underpinning of democratic institutions in the new Ethiopia should be the supremacy of the will of the people and the guarantee of the rule of law; and

WHEREAS, the Ethiopian Transitional Government should adhere to the United Nations Universal Declaration of Human Rights which encourages freedom of speech, assembly, religion, and press, as well as guarantees all basic human rights and discourages ethnocentric politics and ethnic reservations; and

WHEREAS, it is crucial that the diverse voices, opinions, and philosophies of the people be expressed in promoting political, economic, and social progress and justice in Ethiopia; and

WHEREAS, a multiparty government may be the most egalitarian, feasible, and productive political arrangement in providing universal suffrage and in overcoming monumental obstacles; and

WHEREAS, the President and the United States Congress will play a crucial role in promoting the peaceful resolution of the immense problems of war ravaged Ethiopia; and

WHEREAS, the implementation of a democratic, multiparty government in Ethiopia should be a long-range foreign policy goal of the United States government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this Honorable House of Representatives continue to encourage the formation of democratic institutions, multiparty participation, progressive social change, and a respect for human rights in Ethiopia.

Section 2. That the President and the United States Congress be encouraged to re-examine the foreign policy towards Ethiopia and to promote an active foreign policy which serves to help achieve these laudable goals.

Section 3. That a copy of this Resolution be forwarded to President Bill Clinton, the leadership of the United States Congress, the Kentucky Congressional Delegation, Secretary of State Warren Christopher, and His Excellency Ethiopian Ambassador Berhane Gebre-Christos.

SB 72, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 92-623 which reorganized the Department of Employment Services within the Cabinet for Human Resources, including the abolition of the Division of Training and Employment.

Section 2. The General Assembly confirms Executive Order 92-623 to the extent it is not otherwise confirmed by this Act.

SB 93, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Department for Adult Education and Literacy is hereby created and is attached to the Cabinet for Workforce Development. The Department for Adult Education and Literacy shall be composed of the Division of Program Services and the Division of Management and Support Services. Each division shall be headed by a director appointed by the commissioner of the Department for Adult Education and Literacy, and shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Adult Education and Literacy as set forth by administrative order.

(2) The Department for Adult Education and Literacy shall be headed by a commissioner. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary of the Cabinet for Workforce Development and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees and shall be responsible for carrying out the programs and policies of the department. The

commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned to the department.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of programs and services in adult education and literacy. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis. The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(4) The Department for Adult Education and Literacy shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for adult education and literacy. The department shall be under the jurisdiction of the State Board for Adult and Technical Education for all appropriate purposes under this chapter. All appropriate rights, responsibilities, and benefits under this chapter governing adult education and literacy personnel and programs shall apply to the Department for Adult Education and Literacy.

(5) The commissioner shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of adult education and literacy.

(6) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The State Advisory Council for Adult Education and Literacy is hereby created and attached to the Department for Adult Education and Literacy. The members of the council shall be appointed by the Governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult education and literacy programs. The council shall consist of twenty-one (21) members, each of whom shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, one-third shall serve a one (1) year term, one-third shall serve a two (2) year term, and one-third shall serve a three (3) year term. The secretary of the Cabinet for Workforce Development, the secretary of the Cabinet for Education, Arts and Humanities, and the secretary of the Cabinet for Human Resources shall serve as ex officio members. Eleven (11) members of the council shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the council and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term.

(2) The duties of State Advisory Council for Adult Education and Literacy are to advise the secretary of the Cabinet for Workforce Development and the Governor on:

(a) The development and implementation of measurable literacy and adult education goals;

(b) The coordination and monitoring of literacy training programs to ensure progress toward the long-term goals of the state;

(c) Improvement of the quality of literacy programs by supporting the integration of services, staff training, technology-based learning, and the integration of literacy program resources conducted by various agencies of state government; and

(d) Private sector initiatives that would improve adult education and literacy programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Statewide Independent Living Council is hereby created and attached to the Department of Vocational Rehabilitation for administrative purposes to accomplish the purposes enumerated in 29 U.S.C. Section 796d (Title VII, Part A, Section 705 of the Rehabilitation Act Amendments of 1992). Members of the council shall be appointed by the Governor from recommendations submitted by the Department of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities representing geographical and disability diversity as well as representatives from identified service providers and other entities. The composition, qualifications, and terms of service of the council shall conform to the federal law.

(2) Each member of the Statewide Independent Living Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Independent Living Council. The per diem and expenses shall be paid out of the federal funds

appropriated under Title VII part A, and Title I part C of the Rehabilitation Act Amendments of 1992, P. L. 102-569.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Statewide Advisory Council for Vocational Rehabilitation is hereby created within the Department of Vocational Rehabilitation to accomplish the purposes and functions enumerated in 29 U.S.C. Section 725 (Title I, Subtitle B, Section 126 of the Rehabilitation Act Amendments of 1992). Members of the council shall be appointed by the Governor from recommendations submitted by the Department of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities not employed by the department as well as representatives of specified organizations, service providers, and advocacy groups. The compensation, qualifications, and terms of service of the council shall conform to the federal law.

(2) Each member of the Statewide Advisory Council on Vocational Rehabilitation may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Advisory Council on Vocational Rehabilitation. The per diem and expenses shall be paid out of the federal funds appropriated under Title I part A of the Rehabilitation Act Amendments of 1992, P. L. 102-569.

Section 5. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means ***a*** [~~the~~] commissioner [~~for the Department for Adult and Technical Education~~] or any person authorized by ***a*** [~~the~~] commissioner to act on behalf of ***his particular*** [~~the~~] agency ***of the Cabinet for Workforce Development*** with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing and signed by both the commissioner and his designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035***(3)***[~~(4)~~](i).

(3) "Board" means the State Board for Adult and Technical Education created by KRS 151B.095.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) [~~"Commissioner" means the commissioner for the Department for Adult and Technical Education.~~

~~(8)~~] "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(8)[~~(9)~~] "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

[~~(10) "Department" means the Department for Adult and Technical Education as provided by KRS 151B.025.~~]

(9)[~~(11)~~] "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education requiring certification or its equivalent.

(10)[~~(12)~~] "Employee" means a person regularly employed in a position in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education for which compensation is on a full-time or part-time basis.

(11)[~~(13)~~] "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education shall be subject to personnel administration under this chapter.

(12)[~~(14)~~] "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(13)[~~(15)~~] "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(14)[~~(16)~~] "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(15)[~~(17)~~] "Limited status" means employment that is renewable on an annual basis.

(16)[~~(18)~~] "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(17)[~~(19)~~] "Position" means employment [~~in the department~~] involving duties requiring the services of one (1) person.

(18)[~~(20)~~] "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(19)[~~(21)~~] "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(20)[~~(22)~~] "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(21)[~~(23)~~] "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Adult ***Education and Literary*** and ***the Department for*** Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(22)[~~(24)~~] "Region" means a grouping of counties as defined in respective state plans for vocational education and for vocational rehabilitation.

(23)[~~(25)~~] "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(24)[~~(26)~~] "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(25)[~~(27)~~] "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(26)[~~(28)~~] "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(27)[~~(29)~~] "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position, as well as any assistant or secretary attached to the position, who shall be exempt from the state service under KRS Chapter 18A and who is employed in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education under this chapter.

Section 6. KRS 151B.020 is amended to read as follows:

(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be ***composed of the major organizational units listed below*** [~~organized into a Department for Adult and Technical Education, a Department for the Blind~~], and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet[~~.~~

~~(3) The Cabinet for Workforce Development shall consist of the following major organizational units~~]:

(a) ***The Department for Adult Education and Literacy, which is created by Section 1 of this Act;***

(b) The Department for [~~Adult and~~] Technical Education, which is created by KRS 151B.025;

(c)[~~(b)~~]The Department of Vocational Rehabilitation, which is created by KRS 151B.185;

(d)[~~(c)~~]The Department for the Blind, established by KRS 163.470;

(e)[~~(d)~~]The State Board for Adult and Technical Education, which is created by KRS 151B.095;

[~~(e) The Division for Client Assistance which is created by KRS 151B.225;~~]

(f) The Governor's Council on Vocational Education, established by KRS 163.086;

(g) [~~The Governor's Commission on Literacy, established by KRS 151B.135;~~

~~(h)~~] The State Board for Proprietary Education, established by KRS 165A.340;

(h)[~~(i)~~] The GED Foundation, established by KRS 151B.130;

[~~(j) The Kentucky Occupational Information Coordinating Committee established by KRS 151B.215~~]; and

(i)[~~(k)~~] The Kentucky Job Training Coordinating Council, established by KRS 151B.220.

(3)[~~(4)~~] The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees, and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, and Administration and Policy Support. ***The Office of Administration and Policy Support shall be organized into the Divisions of Personnel Services, Fiscal Services, Policy and Budget, Computer Services, and Facilities Management. Each division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development.***

Section 7. KRS 151B.025 is amended to read as follows:

(1) The Department for [~~Adult and~~] Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. [~~The State Board for Adult and Technical Education shall be attached to the department for administrative purposes.~~]

(2) The chief executive officer of the department shall be the commissioner of the Department for [~~Adult and~~] Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor [~~in accordance with KRS 12.050~~]. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned herein.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of nondegree programs in post-secondary and vocational-technical education, [~~programs and services in adult education,~~] and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools, state-operated area vocational education centers, state technical institutes, and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) [~~All responsibilities for programs, staff, and operations at state-operated area vocational education centers and state vocational technical schools, existing as of July 1, 1990, shall be transferred from the Kentucky Department of Education to the Department for Adult and Technical Education. The~~] Area vocational education centers shall be operated in compliance with program standards established by the State Board for Elementary and Secondary Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the State Board for Elementary and Secondary Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education. The cost of operating area vocational education centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) [~~As of July 1, 1990, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made from the Department of Education to the Department for Adult and Technical Education. Appropriate personnel records shall be transferred from the Kentucky Department of Personnel. These transfers shall be made in order to implement the provisions of this section and action taken pursuant thereto.~~

~~(7)~~]The Department for [~~Adult and~~] Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for [~~Adult and~~] Technical Education.

(7)[~~(8)~~] The Department for [~~Adult and~~] Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education[~~, and adult education~~]. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8)[~~(9)~~] The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching [~~and rehabilitation~~] specialities. Such agreements and compensation shall be approved by the ***State*** Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter 45. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9)[~~(10)~~] The commissioner ***of the Department for Technical Education*** shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of [~~adult,~~] technical[~~,~~] and vocational education.

(10)[~~(11)~~] The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 8. KRS 151B.030 is amended to read as follows:

The Department for [~~Adult and~~] Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for [~~Adult and~~] Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education. The deputy commissioner shall also directly supervise [~~the Office of Technical Education and~~] the Office of the Kentucky Tech System, which ***is*** [~~are~~] created ***by subsection*** [~~in subsections (2) and~~] (3) of this section.

(2) There is hereby created ***a Division of Federal Programs and Support Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order*** [~~an Office of Technical Education within the Department for Adult and Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Adult and Technical Education pursuant to KRS 12.050. The office shall be composed of Divisions of Planning and Evaluation, Industrial Training and Development, and Instructional Support~~].

(3) There is hereby created an Office of the Kentucky Tech System within the Department for [~~Adult and~~] Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for [~~Adult and~~] Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated vocational technical schools and area centers known as the Kentucky Tech System. The office shall be composed of ***the Division*** [~~Divisions~~] of School Operations, ***the Division of Program Management*** [~~Post-Secondary Schools, Area Centers~~], an Ombudsman***,*** and an assistant for budget analysis. ***Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education, and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.***

[~~(4) There is hereby created an Office of Administrative Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Financial Management, Personnel Services, Support Services, Facilities Management, and Public Information.~~

~~(5) There is hereby created an Office of Adult Education Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head to directly supervise the office pursuant to KRS 12.050. The office shall be composed of Divisions of Adult Basic Education, including preschool programs for children and their parents, and Workplace Skill Enhancement.~~

~~(6) There is hereby created an Office of Legal Services within the Department for Adult and Technical Education. The commissioner of the Department for Adult and Technical Education shall appoint an office head pursuant to KRS 12.050 to supervise the duties of the office, which shall be attached for administrative purposes to the office of the commissioner of the Department for Adult and Technical Education.~~

~~(7) The commissioner of the Department for Adult and Technical Education, with the approval of the secretary of the Cabinet for Workforce Development, shall establish the organizational branches below division level and arrange the branches within the organizational structure of the Department for Adult and Technical Education as set forth in subsections (4) to (6) of this section to provide required program and administrative services and assure effective execution of the department's responsibilities.~~]

Section 9. KRS 151B.035 is amended to read as follows:

(1) [~~Effective July 1, 1990, all existing staff in the field offices and the state operated vocational schools and appropriate central office personnel from the Kentucky Department of Education shall be transferred to the Department for Adult and Technical Education. Those individuals with merit status shall be transferred to the department. Those employees who are on probation shall be transferred but shall be subject to completion of the probationary period. Annual, compensatory, and sick leave accrued as of July 1, 1990, shall be transferred with the employees.~~

~~(2)~~] The State Board for Adult and Technical Education shall adopt and establish by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the ***Department for Adult Education and Literacy and the*** Department for [~~Adult and~~] Technical Education central ***offices*** [~~office~~], state-operated vocational facilities, and regional staffs. [~~The regulations shall not become effective until October 1, 1990.~~] All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A.

(2)[~~(3)~~] As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the ***Department for Adult Education and***

Literacy and the Department for [~~Adult and~~] Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3)[~~(4)~~] The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the Kentucky Tech System school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4)[~~(5)~~] (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body, other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the ***Department for Adult Education and Literacy and the*** Department for [~~Adult and~~] Technical Education.

(5)[~~(6)~~] The commissioner for Adult ***Education and Literacy*** and ***the commissioner for*** Technical Education shall be the appointing ***authorities*** [~~authority~~] with respect to all personnel actions ***for their respective departments***. ***Each*** [~~The~~] commissioner may authorize a designee to act on behalf of ***his*** [~~the~~] agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6)[~~(7)~~] The board shall ***promulgate*** [~~adopt~~] other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices and central office in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

(7)[~~(8)~~] The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8)[~~(9)~~] The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for a due process hearing and appeal system for aggrieved certified or equivalent employees.

(9)[~~(10)~~] The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10)[~~(11)~~] The board may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final decision or determination, based upon the evidence submitted.

(11)[~~(12)~~] The board shall promulgate regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other regulations authorized by this chapter.

(12)[~~(13)~~] The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

Section 10. KRS 151B.040 is amended to read as follows:

(1) All certified, equivalent, and unclassified employees in the Department for Adult ***Education and Literacy*** and ***the Department for*** Technical Education shall be***:***

(a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225***;***[~~.~~

~~(2) All certified, equivalent, and unclassified employees in the Department for Adult and Technical Education are~~]

(b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265***;***[~~.~~

~~(3) Employees under the jurisdiction of the Department for Adult and Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent staff hired by the Department for Adult and Technical Education shall be placed in the Kentucky Teachers' Retirement System.~~

~~(4) All certified, equivalent, and unclassified employees of the Department for Adult and Technical Education shall be~~]

(c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 through 18A.215***;***[~~.~~]

(d) ***Reimbursed for*** [~~(5)~~] all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 [~~by employees of the department~~] in the performance of their official duties [~~shall be reimbursed~~]; no part of the reimbursement shall be included in or accounted as a part of their salaries***;***[~~.~~

~~(6) All certified, equivalent, and unclassified employees of the Department for Adult and Technical Education are~~]

(e) Ensured equal employment opportunity regardless of race, color, religion, national origin, ***disability*** [~~handicap~~], sex, or age***; and***[~~.~~

~~(7) All employees of the Department for Adult and Technical Education shall be~~]

(f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

(2) Employees under the jurisdiction of the Department for Adult Education and Literacy and the Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the departments shall be placed in the Kentucky Teacher's Retirement System.

Section 11. KRS 151B.045 is amended to read as follows:

(1) The records of the *Department for Adult Education and Literacy and the* Department for [~~Adult and~~] Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the *departments* [~~department~~] for each employee. The *files* [~~file~~] maintained by the *departments* [~~department~~] shall be the official personnel file for the *employees* [~~employee~~].

(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.

(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.

(3) Upon written request, an employee shall have the right to examine his personnel file. An employee may comment in writing on any item in the file. Such comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.

(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 12. KRS 151B.050 is amended to read as follows:

Except as provided by the provisions of this chapter, *the commissioner for adult education and literacy, and* the commissioner for [~~adult and~~] technical education may refuse to consider an applicant for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove the person already appointed if:

(1) It is found that the person did not maintain certification or that certification has been revoked for the position;

(2) The person is unable to perform the duties of the position;

(3) The person made a false statement of material fact in the application;

(4) The application was not submitted correctly or within the prescribed time limits;

(5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;

(6) The person or employee has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(7) The person has previously been dismissed from a position in *his* [~~the~~] department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or

(8) The person has otherwise violated the provisions of this chapter.

Section 13. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Department *for Adult Education and Literacy and the Department for* [~~Adult and~~] Technical Education.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the intent to dismiss is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or his designee.

(3) The ***departments*** [~~department~~] shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner [~~for adult and technical education~~] or his designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or his designee.

(5) The appearance shall be scheduled six (6) working days after receipt of an employee's request to appear before the commissioner or his designee, excluding the day the employee's request is received.

(6) No later than five (5) working days after the employee appears before the commissioner or his designee, excluding the day of the appearance, the commissioner or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the commissioner or his designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

(a) The effective date of dismissal or other penalization;

(b) The specific reason for the action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal is based;

3. The date, time, and place of the action or activities; and

4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion or suspension is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, ***disability*** [~~handicap~~], or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, ***disability*** [~~handicap~~], or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The ***departments*** [~~department~~] shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the ***appropriate*** commissioner shall be notified and the board shall schedule a hearing within the time limits prescribed by this section.

(12) All notices from the board shall be in writing. Notices shall be written so as to be understood by nonattorneys.

(13) (a) The appealing employee and the commissioner whose action is appealed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts.

(b) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section.

(c) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 151B.060.

(d) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts, and information contained in the record.

(14) At the hearing of appeals, technical rules of evidence shall not apply. Upon its own motion or upon request of a party, the board may require the production by a party, an employee, or the ***departments*** [~~department~~], of documents, records, and other material relevant to the appeal.

(15) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(16) A board member or hearing officer shall neither initiate, participate in, nor consider ex parte communications concerning a pending or impending proceeding before the board, except as specifically authorized by administrative regulation of the board in the conduct of a prehearing mediation and settlement procedure formally established by the board under KRS Chapter 13A. Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(17) An appeal to the board may be heard by the full board or a hearing officer.

(18) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or ***disability*** [~~handicap~~], the commissioner shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(19) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

(20) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall promptly issue a final determination for the disposition of the appeal.

Section 14. KRS 151B.065 is amended to read as follows:

(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the ***Department for Adult Education and Literacy or the*** Department for [~~Adult and~~] Technical Education ***as appropriate. The department***, [~~which~~] shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

(c) All other deductions shall be deducted as required by law or by other state regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 15. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult ***education and literacy, the commissioner for*** [~~and~~] technical education***,*** and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated schools shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the ***Department for Adult Education and Literacy and the*** [~~State~~] Department for [~~Adult and~~] Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the Kentucky Tech System, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner ***of the Department for Technical Education*** who shall make a final ruling. For other employees in the ***Department for Adult Education and Literacy and the*** Department for [~~Adult and~~] Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 16. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The department shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies ***his*** [~~the~~] department in writing that he no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, such offers to be for a position of the same classification and salary, and located in the same region, as the position from which laid off;

(c) Without good cause, the laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(d) The laid-off employee cannot be located by postal authorities at the last address provided; or

(e) The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 17. KRS 151B.085 is amended to read as follows:

(1) A layoff of an employee with continuing status in ***his*** [~~the~~] department due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of layoff and prior to the layoff of an employee, ***a*** [~~the~~] department shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the ***appropriate*** commissioner, the employee shall be notified of the pending layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and

(c) The rights granted employees subject to layoff and to laid-off employees.

(3) (a) An employee subject to layoff shall be considered for a vacant position within ***his*** ~~[the]~~ department of the same pay grade, level of duties, and responsibilities for which the employee is qualified.

(b) If a vacancy does not exist, the employee shall be considered for any vacant position within ***his*** ~~[the]~~ department for which qualifications are held.

(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 18. KRS 151B.090 is amended to read as follows:

(1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations, ethnic origin, sex, ***disability*** ~~[handicap]~~, or age.

(2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.

(3) No certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee.

(4) No certified or equivalent employee shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise the right as a citizen privately to express an opinion and to cast a vote. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

Section 19. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, ~~[Department for Adult and Technical Education,]~~ which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership. ~~[The members of the previous State Board for Adult, Vocational Education and Vocational Rehabilitation shall comprise the original members of the State Board for Adult and Technical Education and shall serve in such capacity for the remainder of their terms.]~~

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board shall have the authority to enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs.

(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.

(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.

Section 20. KRS 151B.100 is amended to read as follows:

(1) The ~~[Kentucky]~~ State Board for Adult and Technical Education is recognized to be a public body corporate and politic, and agency and instrumentality of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under its control and supervision, the board may implement the provisions of any act of Congress appropriating and apportioning funds to the state, receive funds appropriated by the ~~[Kentucky]~~ General Assembly, provide for the proper apportionment and disbursement of those funds in accordance with state or federal laws, and accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The board may expend funds necessary for errors and omissions, insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this section shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the board or any of its respective officers, agents, or employees.

Section 21. KRS 151B.105 is amended to read as follows:

For meetings of the State Board for Adult and Technical Education, a majority of the voting members shall constitute a quorum for the transaction of business. The board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The office of the board shall be at the seat of government in the ***Cabinet for Workforce Development*** ~~[Department for Adult and Technical Education]~~ and shall be provided by the state. Members of the board shall receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and shall be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the board.

Section 22. KRS 151B.120 is amended to read as follows:

(1) The commissioner of the Department for Adult ***Education and Literacy*** and ***the commissioner of the Department for*** Technical Education may enter into ***agreements*** ~~[agreement]~~ to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the State Board for Adult and Technical Education at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the ***appropriate*** commissioner ~~[of the Department for Adult and Technical Education]~~. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) ***Each*** ~~[The]~~ commissioner ~~[of the Department for Adult and Technical Education]~~ may approve authorization for ***his*** ~~[the]~~ department ~~[for Adult and Technical Education]~~ to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 23. KRS 151B.125 is amended to read as follows:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5) fee may be assessed by the State Board for Adult and Technical Education for the issuance of a duplicate GED high school equivalency certificate. All fees collected for duplicate certificates shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;

(c) Staff shall be employed and trained by the Department for Adult [~~and Technical~~] Education ***and Literacy*** to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED high school equivalency examination; and

(d) Essay readers will be assigned to the Division of ***Management and Support Services*** [~~Adult Basic Education~~] to score essays daily.

Section 24. KRS 151B.140 is amended to read as follows:

As an agency of the Cabinet for Workforce Development, the ***Department for Adult Education and*** [~~Governor's Commission on~~] Literacy shall administer a statewide adult literacy program. Subject to the availability of resources, services shall be provided in every county for the operation of adult literacy programs.

Section 25. KRS 151B.170 is amended to read as follows:

The commissioner of the Department for [~~Adult and~~] Technical Education may provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the Department for [~~Adult and~~] Technical Education in vocational schools and centers. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the commissioner of the Department for [~~Adult and~~] Technical Education designates. In either case the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 26. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for [~~Adult and~~] Technical Education is authorized to provide medical and accident insurance for students enrolled in the state vocational-technical schools and area vocational education centers. The Department for [~~Adult and~~] Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state vocational-technical schools and area vocational education centers. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for [~~Adult and~~] Technical Education, shall ***promulgate*** [~~adopt~~] administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary and postsecondary students and adults, the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 27. KRS 151B.185 is amended to read as follows:

(1) The Department of Vocational Rehabilitation is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law. The department shall be composed of Divisions of ***Administrative Management*** [~~Field Services~~], Program ***Planning and*** Development, ***Program*** [~~Support~~] Services, and the Carl D. Perkins Comprehensive Rehabilitation Center. ***Each division shall be headed by a director appointed by the commissioner of the Department of Vocational Rehabilitation, and shall be composed of organizational entities as deemed appropriate by the commissioner of the Department of Vocational Rehabilitation, as set forth by administrative order.***

(2) The Department of Vocational Rehabilitation shall have such powers and duties as contained in KRS 151B.180 to 151B.210 and such other functions as may be established by administrative regulation.

(3) The department shall be the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational rehabilitation.

(4) The chief executive officer of the department shall be the commissioner of the Department of Vocational Rehabilitation. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development. The commissioner shall have experience in vocational rehabilitation and supervision and shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department.

(5) Except as otherwise provided, the department shall be the state agency responsible for all rehabilitation services and for other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services. The office of the secretary of the Cabinet for Workforce Development is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services.

(6) [~~As of July 1, 1990, all appropriate transfers of functions, personnel, funds, equipment, facilities, and records shall be made from the Office of Vocational Rehabilitation, Department of Education to the Department of Vocational~~]

~~Rehabilitation, Cabinet for Workforce Development.~~

~~(7)~~]Employees under the jurisdiction of the Department of Vocational Rehabilitation who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems.

Section 28. KRS 151B.190 is amended to read as follows:

Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any individual with a physical or mental ***disability*** ~~[handicap]~~:

(1) Who maintains a domicile in the Commonwealth at the time of filing his application therefor, and whose vocational rehabilitation the State Vocational Rehabilitation Agency determines after full investigation can be satisfactorily achieved; or

(2) Who is eligible therefor under the terms of an agreement with another state or with the federal government.

Section 29. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to ***the Office for Workforce Analysis and Research within the Office of the Secretary of*** the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with Public Law No. 98-524, the Carl D. Perkins Vocational Education Act; Public Law No. 97-300, the Job Training Partnership Act; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to the following:

  (a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

  (b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

  (c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

  (d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

  (e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

  (f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

  (g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

  (h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

  (a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

  (b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;

  (c) The secretary of the Cabinet for Economic Development, or his designee;

  (d) The executive director of the Bluegrass State Skills Corporation;

  (e) The executive director of the Governor's Council on Vocational Education;

  (f) The ***commissioner*** ~~[office head for the Office]~~ of ***the Department of*** Vocational Rehabilitation;

  (g) The ***commissioner of the Department for Technical*** ~~[office head for the Office of Vocational]~~ Education;

(h) The ***commissioner of*** [~~office head for~~] the ***Department for*** [~~Office of~~] Adult Education ***and Literacy***;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on Higher Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 30. KRS 151B.220 is amended to read as follows:

(1) There is hereby created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.

(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for human resources, the secretary for economic development, the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.

(b) The council shall:

1. Perform the functions assigned to it in the Job Training Partnership Act, 29 U.S.C. Section 1501, et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;

2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and

3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor or the secretary for workforce development.

(c) The council shall consist of twenty-one (21) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult [~~and Technical~~] Education ***and Literacy***, the secretary of the Cabinet for Human Resources or his designee, and the secretary of the Cabinet for Economic Development shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.

(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.

Section 31. KRS 151B.225 is amended to read as follows:

(1) There is hereby created a [~~Division for~~] Client Assistance ***Program*** which is assigned for administrative purposes to ***the Office of Administration and Policy Support within*** the office of the secretary of the Cabinet for Workforce Development. [~~The Division for Client Assistance shall be headed by a director who shall be appointed by the secretary of the Cabinet for Workforce Development with the approval of the Governor pursuant to KRS 12.050. The director shall report to the secretary of the Cabinet for Workforce Development and shall be responsible for managing the activities and personnel of the Division for Client Assistance. The cabinet shall hire such personnel as deemed necessary to carry out the function and responsibilities of this office.~~]

(2) The [~~Division for~~] Client Assistance ***Program*** shall [~~have such authority as may be necessary to~~] pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of [~~handicapped~~] individuals ***with disabilities*** who are receiving treatment, services, or rehabilitation under the Rehabilitation Act of 1973, as amended. If additional resources are required to perform the duties and responsibilities of the Client Assistance Program, the Cabinet, on behalf of the [~~Division for~~] Client Assistance ***Program***, may contract with other state agencies to obtain necessary legal or other professional services.

(3) The ***Office of Administration and Policy Support*** [~~Division for Client Assistance~~] shall serve as the agency in charge of all personnel, equipment, records, files, and funds pertaining to the Client Assistance Program as provided for in Public Law 98-221.

Section 32. KRS 151B.230 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the Cabinet for Workforce Development based on recommendations from business, industry, labor, education, and interested citizens. Staff assistance for the board of trustees shall be provided by the Department for [~~Adult and~~] Technical Education.

(4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.

(5) The foundation shall report its finances consistent with ***statutes*** [~~statute~~] and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 33. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
   (a) Secretary of State.
   (b) Board of Elections.
   (c) Registry of Election Finance.
4. Department of Law.
   (a) Attorney General.
5. Department of the Treasury.
   (a) Treasurer.
6. Department of Agriculture.

(a) Commissioner of Agriculture.
(b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Office of Administration.
    (d) Department of Corrections.
    (e) Parole Board.
    (f) Kentucky State Corrections Commission.
2. Education and Humanities Cabinet:
    (a) Department of Education.
        (1) State Board for Elementary and Secondary Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Department of Law.
    (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Office of Aeronautics.
    (g) Office of General Counsel.
    (h) Office of Public Relations.
    (i) Office of Personnel Management.
    (j) Office of Minority Affairs.
5. Cabinet for Economic Development:
    (a) Department for Existing Business and Industry.
    (b) Tobacco Research Board.
    (c) Kentucky Development Finance Authority.
    (d) Office of Business and Technology.
    (e) Office of Industrial Development.
6. Public Protection and Regulation Cabinet:

- (a) Public Service Commission.
- (b) Department of Insurance.
- (c) Department of Housing, Buildings and Construction.
- (d) Department of Financial Institutions.
- (e) Department of Mines and Minerals.
- (f) Department of Public Advocacy.
- (g) Department of Alcoholic Beverage Control.
- (h) Kentucky Racing Commission.
- (i) Board of Claims.
- (j) Crime Victims Compensation Board.
- (k) Kentucky Board of Tax Appeals.
- (l) Backside Improvement Commission.

7. Cabinet for Human Resources:
    - (a) Department for Health Services.
    - (b) Department for Employment Services.
    - (c) Department for Social Insurance.
    - (d) Department for Social Services.
    - (e) Department for Medicaid Services.
    - (f) Department for Mental Health and Mental Retardation Services.
    - (g) Unemployment Insurance Commission.
    - (h) Commission for Handicapped Children.
    - (i) Public Assistance Appeals Board.
    - (j) Office of Administrative Services.
    - (k) Office of Communications.
    - (l) Office of General Counsel.
    - (m) Office of Inspector General.
    - (n) Office of Policy and Budget.
    - (o) Office of the Ombudsman.
8. Finance and Administration Cabinet:
    - (a) Office of Legal and Legislative Services.
    - (b) Office of Management and Fiscal Affairs.
    - (c) Office of Historic Properties.
    - (d) Office of Financial Management and Economic Analysis.
    - (e) Office of Risk Management.
    - (f) Department for Administration.
    - (g) Department of Facilities Management.
    - (h) Department of Information Systems.
    - (i) State Property and Buildings Commission.
    - (j) Kentucky Pollution Abatement Authority.
    - (k) Kentucky Savings Bond Authority.
    - (l) Deferred Compensation Systems.
    - (m) Office of Equal Employment Opportunity Contract Compliance.
    - (n) Capital Plaza Authority.
    - (o) County Officials Compensation Board.
    - (p) Financial Disclosure Review Commission.
    - (q) Kentucky Employees Retirement Systems.
    - (r) Commonwealth Credit Union.
    - (s) State Investment Commission.

(t) Kentucky Housing Corporation.
(u) Governmental Services Center.
(v) Kentucky Local Correctional Facilities Construction Authority.
(w) Kentucky Turnpike Authority.
(x) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Tax Compliance.
(c) Department of Administrative Services.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult [~~and Technical~~] Education ***and Literacy***.
(b) ***Department for Technical Education***
(c) Department of Vocational Rehabilitation.
(d) [~~(c)~~] Department for the Blind.
(e) [~~(d)~~] State Board for Adult and Technical Education.
(f) [~~(e)~~] Governor's Council on Vocational Education.
[~~(f) Governor's Commission on Literacy.~~]
(g) The State Board for Proprietary Education.
(h) The GED Foundation.
(i) [~~The Kentucky Occupational Information Coordinating Committee.~~
~~(j)~~]The Kentucky Job Training Coordinating Council.
(j) Office of General Counsel.
(k) Office of Communication Services.
(l) Office of Development and Industry Relations.
(m) Office of Workforce Analysis and Research.

(n) Office of Administration and Policy Support.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

Section 34. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of these universities;

(c) State and area vocational schools, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and such members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) ***The Department for Adult Education and Literacy;***

(h) The [~~State~~] Department for [~~Adult and~~] Technical Education;

(i) The Office of General Counsel within the office of the secretary of the Cabinet for Workforce Development;

(j) The Office of Administration and Policy Support within the office of the secretary of the Cabinet for Workforce Development;

(k)[~~(h)~~] The Department of Vocational Rehabilitation; and

(l)[~~(i)~~] The Kentucky Educational Collaborative for State Agency Children.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), Ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941,

except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom such contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 35. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university faculty members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless

otherwise specified by the court order.

(2) Each public board, institution, or agency, as listed in KRS 161.220(4)(a) to ***(i)*** [~~(h)~~] shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 36. KRS 163.038 is amended to read as follows:

(1) There is hereby created a public corporation to be known as Computer Services for the Blind Corporation. This corporation shall have the power to sue and be sued, to contract and to be contracted with.

(2) The Computer Services for the Blind Corporation shall have a governing board of directors consisting of nine (9) members. These members shall be selected as follows: The ***commissioner*** [~~executive director~~] of the Department for the Blind, within the [~~Education and Humanities~~] Cabinet ***for Workforce Development*** and one (1) member selected by him; the superintendent of the Kentucky School for the Blind and one (1) member selected by him; the director of Kentucky Industries for the Blind and the director of the Rehabilitation Center for the Blind; three (3) additional members shall be appointed by the Governor from a list of nine (9) nominees made by the other six (6) board members. These nominees must either represent higher education or have expertise in the field of computer services. The three (3) members selected by the superintendent and the directors must be legally blind.

(3) On July 1, 1972, the board of directors is authorized to organize as follows: The three (3) members of the board selected by the superintendent and the directors shall have terms of two (2) years, three (3) years and four (4) years each, to be determined by lot. After the Governor has appointed the three (3) other members to the board, their terms shall likewise be for two (2) years, three (3) years and four (4) years as determined by lot. After the expiration of the original terms, all subsequent terms shall be for four (4) years. After the initial appointment by the Governor from the list of nine (9) nominees, all subsequent appointments for one (1) membership shall be made from a list of three (3) nominees.

(a) It shall be necessary for five (5) members of the board to be present to constitute a quorum.

(b) The board shall provide for the keeping of minutes of all board meetings and shall otherwise keep records of all actions taken by the board or by any other of the board's employees or agents.

(c) Each board member shall receive his necessary traveling and other expenses in attending board meetings or otherwise conducting the board's business.

(d) The board shall meet at least two (2) times per year, but the chairman or any three (3) members of the board may call a meeting in writing with at least five (5) days' notice.

(4) The purpose of the Computer Services for the Blind Corporation shall be to make available computer services to the blind of Kentucky.

(5) The board of directors may employ such persons as may be necessary to carry out the purposes of this section.

(6) The board of directors shall have the power to purchase, lease, rent, or sell any personal or real property as may be necessary in carrying out the functions of this section. The board shall also have the power to accept gifts and donations.

(7) The board of directors may provide that recipients of services provided by the corporation must pay a portion of all of the costs of providing the services. The board may adopt regulations establishing internal procedures without holding a public hearing.

(8) The services provided by Computer Services for the Blind Corporation shall be available to any blind person whether directly paid for by him or by any corporation, business, governmental agency, or charitable organization.

(9) For the purpose of this section, blind means a visual acuity of twenty/two hundred (20/200) in the better eye with correction or a restriction in the visual field so that vision does not subtend an angle greater than twenty (20) in the better eye with correction.

Section 37. KRS 163.470 is amended to read as follows:

(1) There is created within the Cabinet for Workforce Development the Department for the Blind.

(2) The ***commissioner*** [~~executive director~~] shall be appointed by the Governor upon the recommendation of the secretary of the Cabinet for Workforce Development to whom he shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the Cabinet for Workforce Development is authorized as the state agency to receive all state and federal funds and gifts and

bequests for the benefit of rehabilitation services for the blind and visually impaired.

[~~(4) All records, equipment, and personnel presently under the Division of Vocational Rehabilitation Services for the Blind, which includes the Kentucky Business Enterprises Program and the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind, under the jurisdiction of the Department of Rehabilitation Services, Department of Education, shall be transferred to the department. All funds budgeted to the Division of Vocational Rehabilitation Services for the Blind, the Kentucky Business Enterprises Program, the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind shall be transferred to the department.~~] The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the ***commissioner*** [~~executive director~~].

(4) (a)[~~(5)~~] The ***Kentucky*** Department for the Blind [~~shall establish an~~] Advisory Council ***is hereby created and established to accomplish the purposes and functions enumerated in Title I, Subtitle B Section 126 of the Rehabilitation Act Amendments of 1992. Members of the Advisory Council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the Advisory Council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.***

(b) Each member of the Department for the Blind Advisory Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind Advisory Council. The per diem and expenses shall be paid out of the federal funds appropriated under Title I part A of the Rehabilitation Act Amendments of 1992, P. L. 102-569 [~~on Services for the Blind and Visually Impaired of fifteen (15) persons. There shall be statewide representation. Leaders of the known organizations of the blind shall be included. The Advisory Council on Services for the Blind and Visually Impaired shall advise the department and the executive director on matters concerning the delivery of services, the determination of priorities, the formulation of policy, the allocation of resources, the evaluation of programs, and other matters as may be referred to the council by the executive director. The Advisory Council on Services for the Blind and Visually Impaired shall be utilized by the department to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide rehabilitation services to the blind and visually impaired. A majority of the members shall be blind or visually impaired. The term of appointments shall be four (4) years except for the members first appointed: four (4) members shall be appointed for four (4) year terms; four (4) members shall be appointed for three (3) year terms; four (4) members shall be appointed for two (2) year terms; and three (3) members shall be appointed for one (1) year terms. Persons shall be eligible for reappointment; however, no person shall serve more than two (2) consecutive four (4) year terms. The Governor shall appoint the chairman from the membership of the council. The term of office for the chairman shall be two (2) years, and an appointee shall be eligible to serve more than one (1) term. No department employee shall be a member of the council. Members of the council shall serve without compensation but shall be reimbursed for actual expenses incurred in service on the council~~].

(5)[~~(6)~~] The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(6)[~~(7)~~] At the close of each fiscal year, the department shall prepare a financial report and present it to the secretary of the Cabinet for Workforce Development and to the Governor. The annual report shall be published. The annual report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(7)[~~(8)~~] The department shall coordinate its functions with other appropriate public and private agencies.

(8)[~~(9)~~] The department shall perform all other duties as required of it by law.

(9)[~~(10)~~] The ***commissioner*** [~~executive director~~] shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, [~~physical~~] disability, or national origin. Department employees shall receive compensation and travel expenses as allowed other employees of the Commonwealth.

(10)[~~(11)~~] There shall be created under the authority of the department, to be directed by the ***commissioner*** [~~executive director~~], a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(11)[~~(12)~~] There shall be established under the authority of the department to be directed by the ***commissioner*** [~~executive director~~], a Division of Business Enterprises. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(12)[~~(13)~~] There shall be established under authority of the department, to be directed by the ***commissioner*** [~~executive director~~], a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind.

(13)[~~(14)~~] There shall be established an office of support services to provide services and data required by the program divisions for proper and timely execution of their assigned responsibilities, including fiscal and personnel management; staff development and training; program planning, evaluation, and audit; affirmative action and client appeal and hearing services.

(14)[~~(15)~~] The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office, and other staff services as may be deemed necessary.

Section 38. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the Department for Adult [~~and Technical~~] Education ***and Literacy*** within the Cabinet for Workforce Development which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The Department for Adult [~~and Technical~~] Education ***and Literacy*** within the Cabinet for Workforce Development shall license qualified persons or organizations to conduct the program described in KRS 535.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 39. The General Assembly confirms Executive Order 93-593, issued on July 23, 1993, to the extent it is not otherwise confirmed by this Act, except that the Kentucky Independent Living Council is renamed the Statewide Independent Living Council, the Kentucky Rehabilitation Advisory Council is renamed the Statewide Advisory Council for Vocational Rehabilitation, and the Division of Federal Programs is renamed the Division of Federal Programs and Support Services.

Section 40. The following KRS section is repealed:

151B.135 Governor's Commission on Literacy.

The Committee Amendment No. 1 to **SB 93** is as follows:

On page 8, line 5, by deleting "***Literary***" and inserting in lieu thereof "***Literacy***".

SB 246, AN ACT relating to the certification of marriage and family therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Certification for Marriage and Family Therapists;

(2) "Certified marriage and family therapist" means a person who has completed a master's or doctoral degree program in marriage and family therapy, or an equivalent course of study, from an accredited educational institution and who is certified by the board; and

(3) "Certificate holder" means a certified marriage and family therapist certified under the provisions of Sections 1 to 12 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Board of Certification of Marriage and Family Therapists, composed of five (5) members who shall be appointed by the Governor.

(2) Initially, four (4) members shall be appointed by the Governor from a list of eight (8) names submitted by the board of directors of the Kentucky Association of Marriage and Family Therapy. These initial appointees shall possess the qualifications for certification as a marriage and family therapist and shall be deemed certified under the provisions of Sections 1 to 12 of this Act immediately upon their appointments as members of the board. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business of marriage and family therapy. The Governor shall initially appoint one (1) member and the citizen-at-large member to terms of four (4) years, two (2) members to terms of three (3) years, and one (1) member to a term of two (2) years. Thereafter, each member of the board shall serve for a term of four (4) years.

(3) Beginning July 1, 1996, each board candidate shall be certified as a marriage and family therapist prior to nomination and shall be actively engaged in the practice or teaching of marriage and family therapy, except for the citizen-at-large member.

(4) All reappointments to the board and vacancies on the board shall be filled by the Governor from a list of three (3) names submitted from the Kentucky Association for Marriage and Family Therapy. The list submitted from the Kentucky Association for Marriage and Family Therapy shall consist of the three (3) nominees receiving the most votes in an election for each position to be filled. The election shall be administered by the Kentucky Association for Marriage and Family Therapy. In an election conducted by the Kentucky Association for Marriage and Family Therapy, nominations may be submitted by any interested party. The nominees shall be selected by all marriage and family therapists certified under Sections 1 to 12 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Approve or disapprove the granting of all certificates under Sections 1 to 12 of this Act;

(2) Approve the examination required of applicants for certification, provide for the administration and grading of the examination, and provide for other matters relating to certification in the profession of marriage and family therapy;

(3) Review the credentials of certificate holders to determine if they are eligible for recertification and have paid the fee provided for in Section 7 of this Act;

(4) Certify the marriage and family therapist applicants who satisfy the experience and educational requirements of Sections 5 and 6 of this Act and have paid the fee provided for in Section 5 of this Act;

(5) Adopt a code of ethics for certified marriage and family therapists;

(6) Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board and any decisions rendered; and

(7) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purpose and scope of Sections 1 to 12 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel and contract with the Division of Occupations and Professions within the Department of Finance and Administration for the provision of administrative services;

(2) Investigate suspected violations of Sections 1 to 12 of this Act; and

(3) Institute and maintain actions to restrain or enjoin violations of Sections 1 to 12 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a marriage and family therapist shall pay the board an initial fee for certification which shall be established by administrative regulation promulgated by the board. The applicant shall show the board that the applicant:

(1) Is at least eighteen (18) years of age;

(2) Resides in or is employed in the Commonwealth of Kentucky;

(3) Has completed a master's or doctoral degree program in marriage and family therapy, from a regionally-accredited educational institution, or an equivalent course of study as defined by the board by promulgation of administrative regulations. In determining equivalency, the board shall use the criteria for marriage and family therapy education and clinical training approved by the United States Department of Education; and

(4) Has completed each of the following:

(a) At least two (2) years' experience in the practice of marriage and family therapy, acceptable to the board,

subsequent to being granted a master's degree;

(b) A minimum of two hundred (200) hours of clinical supervision acceptable to the board; and

(c) Passed a written examination prescribed by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for certification as a certified marriage and family therapist under Sections 1 to 12 of this Act, within one (1) year from the effective date of this Act, shall meet the requirements of Section 5 of this Act, except for completion of the written examination.

(2) Beginning one (1) year from the effective date of this Act, all applicants shall meet all requirements for certification.

SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Certification issued under Section 5 of this Act shall be renewed every three (3) years upon:

(a) Payment of a fee to be established by administrative regulation promulgated by the board not to exceed three hundred dollars ($300); and

(b) Completion of continuing education requirements, as determined by administrative regulation promulgated by the board, not to exceed sixty (60) clock hours per renewal period.

(2) The board shall cancel any certificate not renewed within three (3) months of the renewal date but may reinstate the certificate upon payment of the renewal fee and satisfaction of other requirements within one (1) year of the anniversary date of issue of renewal.

SECTION 8. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 12 of this Act shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, and nurses, or students within accredited training programs of these professions. Nothing in Sections 1 to 12 of this Act shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

(2) No person shall use the title certified marriage and family therapist or hold himself out as having this status, unless he is certified by the board.

(3) Nothing in Sections 1 to 12 of this Act shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.

(4) Nothing in Sections 1 to 12 of this Act shall be construed to apply to the activities and services of a student intern or trainee in marriage and family therapy who is pursuing a program of studies in marriage and family therapy at an accredited institution of higher learning if these activities are performed under the supervision and constitute a part of the supervised program of study, and if the person is designated a counseling intern, a marriage and family therapist intern, or student in training.

SECTION 9. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

If the board finds any applicant or certificate holder whom it regulates under Sections 1 to 12 of this Act has violated the provisions of Sections 1 to 12 of this Act, or any administrative regulation promulgated thereunder, it may issue an order imposing one (1) or more of the following penalties:

(1) Denial of an application for certification either temporarily or permanently;

(2) Revocation of a certificate or an application for certification either temporarily or permanently;

(3) After a hearing, suspension of a certificate for a period of up to five (5) years;

(4) Imposition of an administrative fine not to exceed one thousand dollars ($1,000); and

(5) Issuance of a reprimand.

SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) In every proceeding for suspension or revocation of a certificate, the certificate holder shall:

(a) Be granted the opportunity for a board hearing;

(b) Be provided by certified mail at the person's last known address at least thirty (30) days prior to the hearing, written notice setting out each alleged offense and the time and place of the hearing. Failure to appear at the hearing shall not prevent the hearing or invalidate any action taken by the board;

(c) Have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges; and

(d) Be provided written notice of its decision to the certificate holder by certified mail within ten (10) days following the conclusion of the hearing.

(2) The board may subpoena persons and papers on its behalf and on the behalf of the person under consideration,

administer oaths, and take testimony.

(3) A decision of the board shall become final thirty (30) days after the conclusion of the hearing unless the certificate holder appeals the decision to the Circuit Court where the certificate holder resides. The suspension or revocation shall remain in effect pending any appeals unless the board provides otherwise in its suspension or revocation order.

SECTION 11. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

A person whose certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board by administrative regulation.

SECTION 12. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Members of the board and its agents shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed reasonably and in good faith by the board member, agent, or employee.

Section 13. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A drug abuse counselor, who is a person employed by a drug abuse and education center licensed by the Kentucky Cabinet for Human Resources pursuant to KRS Chapter 210; ~~[and]~~

(D) An alcohol abuse counselor, who is a person employed by a licensed hospital, or treatment facility licensed by the Kentucky Cabinet for Human Resources pursuant to KRS Chapter 222***; and***

(E) A certified marriage and family therapist as defined in Section 1 of this Act who is engaged to conduct marriage and family therapy pursuant to Sections 1 to 12 of this Act.

(2) A "client" is a person who consults or is interviewed by a counselor for the purpose of obtaining professional services from the counselor.

(3) A communication is "confidential" if not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 14. KRS 335.070 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS ***335.010 to 335.160 and 335.990*** ~~[Chapter 335]~~, and may promulgate, pursuant to the provisions of KRS Chapter 13A, administrative regulations consistent with the provisions of KRS ***335.010 to 335.160 and 335.990*** ~~[Chapter 335]~~, including a code of ethical practice for certified social workers, licensees certified for independent practice, and social workers.

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation, or suspension of a license, shall adopt administrative regulations for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of this chapter, or any administrative regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(6) The board shall maintain a register of certified social workers, social workers, and licensees certified for independent practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

(8) The board shall set by administrative regulation a fee schedule for examinations. The fees shall be sufficient to cover the cost of preparation, administration, and grading of the examinations.

Section 15. KRS 335.140 is amended to read as follows:

All fees and other charges received by the board under ***KRS 335.010 to 335.160 and 335.990*** [~~this chapter~~] shall be deposited in the State Treasury and credited to a separate trust and agency account for the board. The moneys so deposited shall be used to finance the board, and are hereby appropriated to the board. All salaries and expenses shall be paid as budgeted after budgets have been approved by the State Budget Commission or within the limitations of any appropriation for that purpose which may be included in the executive branch budget bill.

SB 262, AN ACT relating to voter registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) (a) Each motor vehicle driver's license application, including any renewal application, submitted to the appropriate motor vehicle authority shall serve as an application for voter registration unless the applicant fails to sign the voter registration application.

(b) An application for voter registration submitted under paragraph (a) of this subsection shall be considered as updating any previous voter registration by the applicant.

(2) No information relating to the failure of an applicant for a motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(3) (a) The Transportation Cabinet shall include a voter registration application form as part of an application for a motor vehicle driver's license.

(b) The voter registration application portion of an application for a motor vehicle driver's license shall comply with the requirements of Section 5 of Public Law 103-31, the National Voter Registration Act of 1993.

(4) Any change of address form submitted for purposes of a motor vehicle driver's license shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(5) (a) A completed voter registration portion of an application for a motor vehicle driver's license accepted by a circuit clerk shall be transmitted to the county clerk of the county of the applicant's voting residence not later than ten (10) days after the date of acceptance.

(b) If a voter registration application is accepted within five (5) days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk of the county of the applicant's voting residence not later than five (5) days after the date of acceptance.

SECTION 2. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) The following agencies are designated as voter registration agencies in accordance with the National Voter Registration Act of 1993:

(a) Agencies that provide benefits under the Aid to Families with Dependent Children, Special Supplemental Food Program for Women, Infants, and Children, Medicaid, or Food Stamps programs;

(b) Armed Forces recruitment offices;

(c) Other agencies as the Secretary of State shall determine to be providing public assistance; and

(d) Other agencies as the Secretary of State shall determine to be state-funded programs primarily engaged in providing services to persons with disabilities.

(2) A voter registration agency that provides service or assistance in conducting voter registration shall:

(a) Distribute with each application for its service or assistance, and with each recertification, renewal, or change of address form, the office's own voter registration application form that complies with the

requirements of Section 7 of Public Law 103-31, the National Voter Registration Act of 1993;

(b) Provide a form that includes:

1. The question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

2. If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

3. Boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of paragraph (c) of this subsection), together with the statement in close proximity to the boxes and in prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

4. The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

5. The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with ____________________.", the blank being filled by the name, address, and telephone number of the appropriate official to whom a complaint should be addressed; and

(c) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses assistance.

(3) (a) At each voter registration agency, the following services shall be made available:

1. Distribution of mail voter registration forms;

2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and

3. Acceptance of completed voter registration application forms for transmittal to the county clerk of the county of the applicant's voting residence.

(b) If a voter registration agency designated under subsection (1)(d) of this section provides services to a person with a disability at the person's home, the agency shall provide the services described in paragraph (a) of this subsection at the person's home.

(4) A person who provides services described in subsection (3) of this section shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any material indicating the person's political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register to vote has any bearing on the availability of services or benefits.

(5) The State Board of Elections may designate requirements for record keeping and document retention it deems necessary to comply with the National Voter Registration Act of 1993 and the provisions of this chapter.

(6) (a) A completed registration application accepted at a voter registration agency shall be transmitted to the county clerk of the county of the applicant's voting residence or the State Board of Elections not later than ten (10) days after the date of acceptance.

(b) If a registration application is accepted within five (5) days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk of the county of the applicant's voting residence or the State Board of Elections not later than five (5) days after the date of acceptance.

SECTION 3. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of determining whether a voter registration application is received during the period in which registration books are open under KRS 116.045(2), an application shall be deemed timely received:

(a) In the case of registration with a motor vehicle driver's application, if the valid voter registration form of the applicant is accepted by the circuit clerk before the registration books are closed;

(b) In the case of registration by mail, if the valid voter registration form of the applicant is postmarked before the registration books are closed and is received within five (5) days after the registration books are closed by

the appropriate county clerk or the State Board of Elections;

(c) In the case of registration with a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency before the registration books are closed; and

(d) In any other case, if the valid voter registration form of the applicant is received by the appropriate county clerk before the registration books are closed.

(2) The county clerk shall send notice to each applicant of the disposition of the application.

(3) The name of a registered voter shall not be removed from the registration books except:

(a) Upon request of the voter;

(b) As provided by KRS 116.113, upon notice of death, declaration of incompetency, or conviction of a felony; or

(c) Upon failure to respond to a confirmation mailing sent pursuant to KRS 116.112(3) and failure to vote or appear to vote and, if necessary, correct the registration record of the voter's address in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(4) The identity of the voter registration agency or circuit clerk's office through which any particular voter is registered shall not be disclosed to the public.

Section 4. KRS 116.025 is amended to read as follows:

(1) Every person who is a resident of this state and the precinct in which he offers to vote on or before the day preceding the closing of the registration books for any primary, general or special election, who possesses on the day of any election the qualifications set forth in Section 145 of the Constitution, exclusive of the durational residency requirements, who is not disqualified under that section or under any other statute, and who is registered as provided in this chapter, may vote for all officers to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote. Any person who shall have been convicted of any election law offense which is a felony shall not be permitted to vote until his civil rights have been restored by executive pardon.

(2) Any person charged with or indicted for a crime, whether or not in custody for same, who has not yet been convicted of the offense and who is not otherwise ineligible to vote, may vote for all offices to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote.

(3) A registered voter who ***changes his place of residence from one (1) precinct to another within the same county*** [~~moves~~] while the registration books are closed ***shall be permitted to update the voting records and to vote in the present election at the appropriate precinct for the current address as set forth in KRS 116.085(3)*** [~~for an election and is not permitted to register at his new residence may vote at his former residence, either in person or by absentee ballot~~].

(4) Notwithstanding any provision of law to the contrary, any registered voter who changes his place of residence from one precinct to another within the same county prior to the closing of the registration books and who fails to transfer his registration with the county clerk prior to the date the registration books are closed, shall be permitted to vote in the present election at the appropriate precinct for the current address as set forth in KRS 116.085(2).

(5) Any registered voter who changes his place of residence to a different county while the registration books are closed shall be permitted to vote at the appropriate precinct for his former residence in the present election and shall thereafter transfer his voter registration.

Section 5. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) The county clerk shall cause all registration to be closed the fourth Tuesday preceding through the first Monday following, any primary or general election, and the twenty-eight (28) days prior to and seven (7) days following any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed ***except for any registered voter who transfers his registration pursuant to KRS 116.085(2) or KRS 116.085(3).*** [~~; except that,~~] Registration shall be closed only in those precincts in which the election is held. During the period that registration is closed, the county clerk shall accept no registrations or changes in registration except those received by mail***, from a circuit clerk or a voter registration agency,*** or completed on election day at the polls and delivered to the clerk by the precinct election officers.

(3) In all counties, the county clerk shall receive registrations, transfers, or changes of party affiliation at branch offices at any place in the county during those periods that the registration books are open ***except for those transfers pursuant to KRS 116.085(2) or KRS 116.085(3)***. However, notice in the manner provided by KRS Chapter 424 shall be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice shall be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

(a) In person;

(b) By mail;

(c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the Armed Forces, or a dependent of members of the Armed Forces, or overseas citizen; ~~[or]~~

(d) ***By mail-in application form prescribed by the Federal Election Commission pursuant to the National Voter Registration Act of 1993; or***

(e) By other methods of registration, or reregistration, approved by the State Board of Elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county clerk, which may include door to door canvassing.

(5) Upon receipt of the form prescribed by the State Board of Elections ***or the Federal Election Commission pursuant to the National Voter Registration Act of 1993***, properly filled out and signed by the applicant, the county clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms ***including the mail-in application form prescribed by the Federal Election Commission pursuant to the National Voter Registration Act of 1993*** in the county clerk's office. The individual or group shall act under the proper supervision and directions of the county clerk and shall return these completed forms to the county clerk for official registration by the county clerk.

(7) ***No later than December 31, 1994, the Transportation Cabinet shall equip all driver's license agencies to comply with the provisions of the National Voter Registration Act of 1993. The Secretary of State shall provide assistance and interpretation to the Transportation Cabinet in determining the requirements of the National Voter Registration Act of 1993*** ~~[The county clerk shall provide voter registration cards which shall be made available where motor vehicle license plates are issued. The cards shall be displayed in plain view and notice of their availability posted prominently. Personnel who issue licenses may offer a voter registration card. The completed forms shall be returned by the applicant either in person or by mail to the county clerk for official registration]~~.

Section 6. KRS 116.085 is amended to read as follows:

(1) When a voter changes his place of residence to another location within the county, the clerk shall, upon application of the voter in person***,*** ~~[or]~~ by mail, ***or through a circuit clerk,*** transfer the voter's registration record to the proper precinct.

(2) ***When a registered voter changes his place of residence from one precinct to another within the same county before the registration books are closed and fails to transfer his registration with the county clerk prior to the date the registration books are closed, the voter shall be permitted to update the voting records and to vote in the present election at the appropriate precinct for the current address upon affirmation of his current address and signing the precinct list as set forth in KRS 117.225. Before being permitted to vote, the voter shall also confirm his identity as required in KRS 117.227 and complete the affidavit which is required to be completed by a voter whose right to vote has been challenged. The subscribed oaths shall be delivered to the county clerk and investigated in accordance with KRS 117.245.***

(3) When a registered voter changes his place of residence from one (1) precinct to another precinct within the same county after the registration books close, the voter shall be permitted to vote in the present election at the appropriate precinct for the current address upon affirmation of his current address and signing the precinct list as set forth in KRS 117.225. Before being permitted to vote, the voter shall confirm his identity as required by KRS 117.227 and complete the affidavit which is required to be completed by a voter whose right to vote is challenged. The subscribed oaths shall be delivered to the county clerk and investigated in accordance with KRS 117.245.

(4) When the boundaries of a precinct are changed by law, placing a registered voter in a new or different precinct, the clerk shall automatically transfer the voter's registration record to the proper precinct and mail the voter a notice of the change.

(5)~~[(3)]~~ A voter who has changed his name may indicate the change at the precinct on election day by completing the form provided for this purpose by the State Board of Elections. The form shall be returned by the precinct officer to the county clerk who shall make the necessary change on the voter's registration record.

~~[(4) The county clerk may petition the State Board of Elections for approval of a plan by which the clerk may make changes in voter addresses based upon the clerk's own knowledge of the change. If a voter's address is changed through a plan approved under this subsection, the clerk shall transfer the voter's registration record to the proper precinct and shall, within ten (10) days of the transfer, mail to the voter a notice of the address change which shall include the name and voting location of the voter's new precinct.]~~

Section 7. KRS 116.112 is amended to read as follows:

(1) The State Board of Elections shall establish ***a voter registration purge program using the change-of-address information supplied by the United States Postal Service through its licensees or other sources to identify voters whose addresses may have changed.***

(2) If it appears from information provided by the postal service or other sources that a voter has moved to a different address in the same county in which the voter is currently registered, the State Board of Elections shall provide to

the county board of elections the information necessary to change the registration records to show the new address and the county board of elections shall send the voter a notice of the change by forwardable mail and a postage prepaid, pre-addressed return form by which the voter may verify or correct the address information.

(3) If it appears from information provided by the postal service or other sources that a voter has moved to a different address not in the same county, the county board of elections shall send to the address from which the voter was last registered, by forwardable mail, a notice on a form prescribed by the State Board of Elections, with a postage prepaid and pre-addressed return card on which the voter may state his current address.

(4) The county board of elections shall not remove the name of a voter from the registration records on the ground that the voter has changed his residence unless the voter:

(a) Confirms in writing that the voter has changed residence to a place outside the county; or

(b) 1. Has failed to respond to the notice described in subsection (3) of this section; and

2. Has not voted or appeared to vote and, if necessary, correct the registration records of the voter's address in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(5) The county boards of elections shall establish an inactive list of all voters who fail to respond to the notice described in subsection (3) of this section and do not vote or appear to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(6) The State Board of Elections shall complete, not later than ninety (90) days prior to the date of a primary or general election, any program the purpose of which is to systematically remove the names of ineligible voters from the registration records.

(7) Voters placed on an inactive list are to be counted only for purposes of voting and not for purposes of establishing or modifying precincts, calculating the amount of reimbursement of county clerks by the State Board of Elections for certain election-related expenses, or reporting official statistics, except as provided by the Federal Election Commission's regulations promulgated pursuant to the National Voter Registration Act of 1993.

(8) (a) The State Board of Elections and county boards of elections shall maintain for at least two (2) years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records, except to the extent that the records relate to the declination to register to vote or the identity of a voter registration agency through which any particular voter is registered.

(b) The records maintained pursuant to paragraph (a) of this subsection shall include lists of the names and addresses of all persons to whom notices described in subsection (3) are sent, and information concerning whether each person has responded to the notice as of the date that inspection of the records is made [~~by administrative regulation a schedule to conduct a purge of ineligible and deceased voters in every even numbered year beginning with the fiscal year which begins July 1, 1990. The purge shall be conducted as set forth in this section, or by use of the United States Postal Service Address Information System (AIS).~~

~~(2) The State Board of Elections shall send to each registered voter, by first class mail, a notice of voter registration. The notice shall contain:~~

~~(a) The name of the voter; and~~

~~(b) The voter's precinct.~~

~~(3) The notice shall provide that it is not forwardable and shall be returned to the State Board of Elections if undeliverable.~~

~~(4) If the notice is returned by the postal service with information that the voter has moved or may otherwise be ineligible to vote, the State Board of Elections shall forthwith mail to the voter who has moved a notice of intention to remove the voter's name from the voter registration list. This notice shall be forwardable and shall give the voter thirty (30) days to protest that he remains eligible to vote and should not be removed from the registration rolls. The expiration of this thirty (30) day notice shall not fall during a period when the registration books are closed for any primary or general election. The State Board of Elections' purgation notice shall contain a change of address form addressed to the county clerk of the county where the voter resides upon which the voter may request that his voter registration be transferred to his new address in the county or may request a hearing before the county board of elections to protest that he remains eligible to vote. Immediately upon mailing of the notices to a county, the State Board of Elections shall forward to the county clerk a list of all voters in the county to whom purgation notices were sent.~~

~~(5) If the voter requests a change of address, in person or in writing, with the county clerk before the end of the thirty (30) day notice period, or if the voter files a protest before the end of the thirty (30) day notice period, he shall not be removed from the registration rolls of the county. All protests against removal shall be heard at the regular monthly meeting of the county board of elections next following the day upon which the thirty (30) day notice period expires.~~

~~(6) At the expiration of the thirty (30) day notice period, the county clerk shall remove from the registration rolls the names of all voters submitted to him by the State Board of Elections, except those voters who have transferred their voter registration to their current residence address or who have filed a protest to be heard by the county board of elections~~].

Section 8. KRS 116.155 is amended to read as follows:

All forms pertaining to registration shall be prescribed and furnished by the State Board of Elections. The registration form shall include the voter's name; date of birth; Social Security number, if any; mailing and residence addresses, if different [~~and telephone number~~]; and such other information as the State Board of Elections may deem necessary. No person shall be denied the right to register because of the failure to include his Social Security number [~~or telephone number~~]. All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 9. KRS 186.412 is amended to read as follows:

(1) Every person seeking an operator's license, or a renewal of an operator's license for the operation of a motor vehicle, motorcycle, or moped or an identification card shall apply in person to the Circuit Court clerk of the county in which the applicant resides and shall make application upon a form furnished by the Transportation Cabinet. The application form shall contain and shall require the full and legal name and signature, date of birth, Social Security number, sex, present resident address of the applicant, ***other information necessary to permit the application to also serve as an application for voter registration,*** and briefly describe the applicant. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked, or refused, and if so, the date of and reason for the cancellation, suspension, revocation, or refusal, and such other information as may be required.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. The license shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under twenty-one (21).

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a color photo identification card may apply in person to the circuit clerk in the county in which he resides. When requested by the clerk, a person shall bring a birth certificate and Social Security card. The Social Security card shall contain his signature. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form. The identification card shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21).

(6) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(7) The cabinet shall provide on each license to operate motor vehicles or motorcycles issued a space for the licensed driver's blood type; a space for a medical insignia to be stamped with the proper insignia by the Circuit Court clerk, if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and a statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195. In addition, if the motor vehicle operator denotes a physical ailment or drug allergy on the license, he may apply for and shall receive, for a fee of one dollar ($1), a medical insignia decal which may be affixed to the lower left side of the front windshield of a motor vehicle. The applicant shall remit a fee of one dollar ($1) to the circuit clerk, at which time the clerk shall issue the insignia.

(8) An operator's license as issued pursuant to this section shall be designated a Class D license.

(9) No person shall have more than one (1) license.

Section 10. KRS 186.540 is amended to read as follows:

When [~~Whenever~~] any person after applying for or receiving an operator's license moves from the address named in the application or license issued to him or when the name of a licensee is changed, by marriage or otherwise, ***the*** [~~such~~] person shall within ten (10) days after the change***, apply to the circuit clerk in his county of residence for the issuance of a corrected license*** [~~notify the cabinet in writing of his old and new addresses, or his former and new names and the number of any license then held by him~~].

Section 11. The following KRS section is repealed:

116.125 Purge on county board's own knowledge -- Procedure.

The Committee Substitute to **SB 262** is as follows:

SB 262, AN ACT relating to voter registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) (a) Each motor vehicle driver's license application, including any renewal application, submitted to the appropriate motor vehicle authority shall serve as an application for voter registration unless the applicant fails to sign the voter registration application.

(b) An application for voter registration submitted under paragraph (a) of this subsection shall be considered as updating any previous voter registration by the applicant.

(2) No information relating to the failure of an applicant for a motor vehicle driver's license to sign a voter registration application may be used for any purpose other than voter registration.

(3) (a) The Transportation Cabinet shall include a voter registration application form as part of an application for a motor vehicle driver's license.

(b) The voter registration application portion of an application for a motor vehicle driver's license shall comply with the requirements of Section 5 of Public Law 103-31, the National Voter Registration Act of 1993.

(4) Any change of address form submitted for purposes of a motor vehicle driver's license shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

(5) (a) A completed voter registration portion of an application for a motor vehicle driver's license accepted by a circuit clerk shall be transmitted to the county clerk of the county of the applicant's voting residence not later than ten (10) days after the date of acceptance.

(b) If a voter registration application is accepted within five (5) days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk of the county of the applicant's voting residence not later than five (5) days after the date of acceptance.

SECTION 2. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) The following agencies are designated as voter registration agencies in accordance with the National Voter Registration Act of 1993:

(a) Agencies that provide benefits under the Aid to Families with Dependent Children, Special Supplemental Food Program for Women, Infants, and Children, Medicaid, or Food Stamps programs;

(b) Armed Forces recruitment offices;

(c) Other agencies as the Secretary of State shall determine to be providing public assistance; and

(d) Other agencies as the Secretary of State shall determine to be state-funded programs primarily engaged in providing services to persons with disabilities.

(2) A voter registration agency that provides service or assistance in conducting voter registration shall:

(a) Distribute with each application for its service or assistance, and with each recertification, renewal, or change of address form, the office's own voter registration application form that complies with the requirements of Section 7 of Public Law 103-31, the National Voter Registration Act of 1993;

(b) Provide a form that includes:

1. The question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

2. If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

3. Boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of paragraph (c) of this subsection), together with the statement in close proximity to the boxes and in prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

4. The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

5. The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint

with ________________.", the blank being filled by the name, address, and telephone number of the appropriate official to whom a complaint should be addressed; and

(c) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses assistance.

(3) (a) At each voter registration agency, the following services shall be made available:

1. Distribution of mail voter registration forms;

2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and

3. Acceptance of completed voter registration application forms for transmittal to the county clerk of the county of the applicant's voting residence.

(b) If a voter registration agency designated under subsection (1)(d) of this section provides services to a person with a disability at the person's home, the agency shall provide the services described in paragraph (a) of this subsection at the person's home.

(4) A person who provides services described in subsection (3) of this section shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any material indicating the person's political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register to vote has any bearing on the availability of services or benefits.

(5) The State Board of Elections may designate requirements for record keeping and document retention it deems necessary to comply with the National Voter Registration Act of 1993 and the provisions of this chapter.

(6) (a) A completed registration application accepted at a voter registration agency shall be transmitted to the county clerk of the county of the applicant's voting residence or the State Board of Elections not later than ten (10) days after the date of acceptance.

(b) If a registration application is accepted within five (5) days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk of the county of the applicant's voting residence or the State Board of Elections not later than five (5) days after the date of acceptance.

SECTION 3. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of determining whether a voter registration application is received during the period in which registration books are open under KRS 116.045(2), an application shall be deemed timely received:

(a) In the case of registration with a motor vehicle driver's license application, if the valid voter registration form of the applicant is accepted by the circuit clerk before the registration books are closed;

(b) In the case of registration by mail, if the valid voter registration form of the applicant is postmarked before the registration books are closed and is received within five (5) days after the registration books are closed by the appropriate county clerk or the State Board of Elections;

(c) In the case of registration with a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency before the registration books are closed; and

(d) In any other case, if the valid voter registration form of the applicant is received by the appropriate county clerk before the registration books are closed.

(2) The county clerk shall send notice to each applicant of the disposition of the application.

(3) The name of a registered voter shall not be removed from the registration books except:

(a) Upon request of the voter;

(b) As provided by KRS 116.113, upon notice of death, declaration of incompetency, or conviction of a felony; or

(c) Upon failure to respond to a confirmation mailing sent pursuant to KRS 116.112(3) and failure to vote or appear to vote and, if necessary, correct the registration record of the voter's address in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(4) The identity of the voter registration agency or circuit clerk's office through which any particular voter is registered shall not be disclosed to the public.

Section 4. KRS 116.025 is amended to read as follows:

(1) Every person who is a resident of this state and the precinct in which he offers to vote on or before the day preceding the closing of the registration books for any primary, general or special election, who possesses on the day of any election the qualifications set forth in Section 145 of the Constitution, exclusive of the durational residency requirements, who is not disqualified under that section or under any other statute, and who is registered as provided in this chapter, may vote for all officers to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote. Any person who shall have been convicted of any election law offense which is a felony shall not be permitted to vote until his civil rights have been restored by executive pardon.

(2) Any person charged with or indicted for a crime, whether or not in custody for same, who has not yet been convicted of the offense and who is not otherwise ineligible to vote, may vote for all offices to be elected by the people and on all public questions submitted for determination at that election, in the precinct in which he is qualified to vote.

(3) A registered voter who ***changes his place of residence from one (1) precinct to another within the same county*** [~~moves~~] while the registration books are closed ***shall be permitted to update the voting records and to vote in the present election at the appropriate precinct for the current address as set forth in KRS 116.085(3)*** [~~for an election and is not permitted to register at his new residence may vote at his former residence, either in person or by absentee ballot~~].

(4) Notwithstanding any provision of law to the contrary, any registered voter who changes his place of residence from one (1) precinct to another within the same county prior to the closing of the registration books and who fails to transfer his registration with the county clerk prior to the date the registration books are closed, shall be permitted to vote in the present election at the appropriate precinct for the current address as set forth in KRS 116.085(2).

(5) Any registered voter who changes his place of residence to a different county while the registration books are closed shall be permitted to vote at the appropriate precinct for his former residence in the present election and shall thereafter transfer his voter registration.

Section 5. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) The county clerk shall cause all registration to be closed the fourth Tuesday preceding through the first Monday following, any primary or general election, and the twenty-eight (28) days prior to and seven (7) days following any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed ***except for any registered voter who transfers his registration pursuant to KRS 116.085(2) or KRS 116.085(3).***[~~; except that,~~] Registration shall be closed only in those precincts in which the election is held. During the period that registration is closed, the county clerk shall accept no registrations or changes in registration except those received by mail***, from a circuit clerk or a voter registration agency,*** or completed on election day at the polls and delivered to the clerk by the precinct election officers.

(3) In all counties, the county clerk shall receive registrations, transfers, or changes of party affiliation at branch offices at any place in the county during those periods that the registration books are open ***except for those transfers pursuant to KRS 116.085(2) or KRS 116.085(3)***. However, notice in the manner provided by KRS Chapter 424 shall be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice shall be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

- (a) In person;
- (b) By mail;
- (c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the Armed Forces, or a dependent of members of the Armed Forces, or overseas citizen; [~~or~~]
- (d) ***By mail-in application form prescribed by the Federal Election Commission pursuant to the National Voter Registration Act of 1993; or***
- ***(e)*** By other methods of registration, or reregistration, approved by the State Board of Elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county clerk, which may include door to door canvassing.

(5) Upon receipt of the form prescribed by the State Board of Elections ***or the Federal Election Commission pursuant to the National Voter Registration Act of 1993***, properly filled out and signed by the applicant, the county clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms ***including the mail-in application form prescribed by the Federal Election Commission pursuant to the National Voter Registration Act of 1993*** in the county clerk's office. The individual or group shall act under the proper supervision and directions of the county clerk and shall return these completed forms to the county clerk for official registration by the county clerk.

(7) ***No later than December 31, 1994, the Transportation Cabinet shall equip all driver's license agencies to comply with***

the provisions of the National Voter Registration Act of 1993. The Secretary of State shall provide assistance and interpretation to the Transportation Cabinet in determining the requirements of the National Voter Registration Act of 1993 [~~The county clerk shall provide voter registration cards which shall be made available where motor vehicle license plates are issued. The cards shall be displayed in plain view and notice of their availability posted prominently. Personnel who issue licenses may offer a voter registration card. The completed forms shall be returned by the applicant either in person or by mail to the county clerk for official registration~~].

Section 6. KRS 116.085 is amended to read as follows:

(1) When a voter changes his place of residence to another location within the county, the clerk shall, upon application of the voter in person***,*** ~~[or]~~ by mail, ***or through a circuit clerk,*** transfer the voter's registration record to the proper precinct.

(2) ***When a registered voter changes his place of residence from one (1) precinct to another within the same county before the registration books are closed and fails to transfer his registration with the county clerk prior to the date the registration books are closed, the voter shall be permitted to update the voting records and to vote in the present election at the appropriate precinct for the current address upon affirmation of his current address and signing the precinct list as set forth in KRS 117.225. Before being permitted to vote, the voter shall also confirm his identity as required in KRS 117.227 and complete the affidavit which is required to be completed by a voter whose right to vote has been challenged. The subscribed oaths shall be delivered to the county clerk and investigated in accordance with KRS 117.245.***

(3) When a registered voter changes his place of residence from one (1) precinct to another precinct within the same county after the registration books close, the voter shall be permitted to vote in the present election at the appropriate precinct for the current address upon affirmation of his current address and signing the precinct list as set forth in KRS 117.225. Before being permitted to vote, the voter shall confirm his identity as required by KRS 117.227 and complete the affidavit which is required to be completed by a voter whose right to vote is challenged. The subscribed oaths shall be delivered to the county clerk and investigated in accordance with KRS 117.245.

(4) When the boundaries of a precinct are changed by law, placing a registered voter in a new or different precinct, the clerk shall automatically transfer the voter's registration record to the proper precinct and mail the voter a notice of the change.

(5)[~~(3)~~] A voter who has changed his name may indicate the change at the precinct on election day by completing the form provided for this purpose by the State Board of Elections. The form shall be returned by the precinct officer to the county clerk who shall make the necessary change on the voter's registration record.

[~~(4) The county clerk may petition the State Board of Elections for approval of a plan by which the clerk may make changes in voter addresses based upon the clerk's own knowledge of the change. If a voter's address is changed through a plan approved under this subsection, the clerk shall transfer the voter's registration record to the proper precinct and shall, within ten (10) days of the transfer, mail to the voter a notice of the address change which shall include the name and voting location of the voter's new precinct.~~]

Section 7. KRS 116.112 is amended to read as follows:

(1) The State Board of Elections shall establish ***a voter registration purge program using the change-of-address information supplied by the United States Postal Service through its licensees or other sources to identify voters whose addresses may have changed.***

(2) If it appears from information provided by the postal service or other sources that a voter has moved to a different address in the same county in which the voter is currently registered, the State Board of Elections shall provide to the county board of elections the information necessary to change the registration records to show the new address and the county board of elections shall send the voter a notice of the change by forwardable mail and a postage prepaid, pre-addressed return form by which the voter may verify or correct the address information.

(3) If it appears from information provided by the postal service or other sources that a voter has moved to a different address not in the same county, the county board of elections shall send to the address from which the voter was last registered, by forwardable mail, a notice on a form prescribed by the State Board of Elections, with a postage prepaid and pre-addressed return card on which the voter may state his current address.

(4) The county board of elections shall not remove the name of a voter from the registration records on the ground that the voter has changed his residence unless the voter:

- ***(a) Confirms in writing that the voter has changed residence to a place outside the county; or***
- ***(b) 1. Has failed to respond to the notice described in subsection (3) of this section; and***
  - ***2. Has not voted or appeared to vote and, if necessary, correct the registration records of the voter's address in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.***

(5) The county boards of elections shall establish an inactive list of all voters who fail to respond to the notice described in subsection (3) of this section and do not vote or appear to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs

after the date of the notice.

(6) The State Board of Elections shall complete, not later than ninety (90) days prior to the date of a primary or general election, any program the purpose of which is to systematically remove the names of ineligible voters from the registration records.

(7) Voters placed on an inactive list are to be counted only for purposes of voting and not for purposes of establishing or modifying precincts, calculating the amount of reimbursement of county clerks by the State Board of Elections for certain election-related expenses, or reporting official statistics, except as provided by the Federal Election Commission's regulations promulgated pursuant to the National Voter Registration Act of 1993.

(8) (a) The State Board of Elections and county boards of elections shall maintain for at least two (2) years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records, except to the extent that the records relate to the declination to register to vote or the identity of a voter registration agency through which any particular voter is registered.

(b) The records maintained pursuant to paragraph (a) of this subsection shall include lists of the names and addresses of all persons to whom notices described in subsection (3) are sent, and information concerning whether each person has responded to the notice as of the date that inspection of the records is made [~~by administrative regulation a schedule to conduct a purge of ineligible and deceased voters in every even-numbered year beginning with the fiscal year which begins July 1, 1990. The purge shall be conducted as set forth in this section, or by use of the United States Postal Service Address Information System (AIS).~~

~~(2) The State Board of Elections shall send to each registered voter, by first-class mail, a notice of voter registration. The notice shall contain:~~

~~(a) The name of the voter; and~~

~~(b) The voter's precinct.~~

~~(3) The notice shall provide that it is not forwardable and shall be returned to the State Board of Elections if undeliverable.~~

~~(4) If the notice is returned by the postal service with information that the voter has moved or may otherwise be ineligible to vote, the State Board of Elections shall forthwith mail to the voter who has moved a notice of intention to remove the voter's name from the voter registration list. This notice shall be forwardable and shall give the voter thirty (30) days to protest that he remains eligible to vote and should not be removed from the registration rolls. The expiration of this thirty (30) day notice shall not fall during a period when the registration books are closed for any primary or general election. The State Board of Elections' purgation notice shall contain a change of address form addressed to the county clerk of the county where the voter resides upon which the voter may request that his voter registration be transferred to his new address in the county or may request a hearing before the county board of elections to protest that he remains eligible to vote. Immediately upon mailing of the notices to a county, the State Board of Elections shall forward to the county clerk a list of all voters in the county to whom purgation notices were sent.~~

~~(5) If the voter requests a change of address, in person or in writing, with the county clerk before the end of the thirty (30) day notice period, or if the voter files a protest before the end of the thirty (30) day notice period, he shall not be removed from the registration rolls of the county. All protests against removal shall be heard at the regular monthly meeting of the county board of elections next following the day upon which the thirty (30) day notice period expires.~~

~~(6) At the expiration of the thirty (30) day notice period, the county clerk shall remove from the registration rolls the names of all voters submitted to him by the State Board of Elections, except those voters who have transferred their voter registration to their current residence address or who have filed a protest to be heard by the county board of elections~~].

Section 8. KRS 116.155 is amended to read as follows:

All forms pertaining to registration shall be prescribed and furnished by the State Board of Elections. The registration form shall include the voter's name; date of birth; Social Security number, if any; mailing and residence addresses, if different [~~and telephone number~~]; and such other information as the State Board of Elections may deem necessary. No person shall be denied the right to register because of the failure to include his Social Security number [~~or telephone number~~]. All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 9. KRS 186.412 is amended to read as follows:

(1) Every person seeking an operator's license, or a renewal of an operator's license for the operation of a motor vehicle, motorcycle, or moped or an identification card shall apply in person to the Circuit Court clerk of the county in which the applicant resides and shall make application upon a form furnished by the Transportation Cabinet. The application form shall contain and shall require the full and legal name and signature, date of birth, Social Security number, sex, present resident address of the applicant, ***other information necessary to permit the application to also serve as an application for voter registration,*** and briefly describe the applicant. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked, or refused, and if so, the date of and reason for the cancellation, suspension, revocation, or refusal,

and such other information as may be required.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. The license shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under twenty-one (21).

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a color photo identification card may apply in person to the circuit clerk in the county in which he resides. When requested by the clerk, a person shall bring a birth certificate and Social Security card. The Social Security card shall contain his signature. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form. The identification card shall designate by color coding and by use of the phrase "under (21)" if the licensee is under the age of twenty-one (21).

(6) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(7) The cabinet shall provide on each license to operate motor vehicles or motorcycles issued a space for the licensed driver's blood type; a space for a medical insignia to be stamped with the proper insignia by the Circuit Court clerk, if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and a statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195. In addition, if the motor vehicle operator denotes a physical ailment or drug allergy on the license, he may apply for and shall receive, for a fee of one dollar ($1), a medical insignia decal which may be affixed to the lower left side of the front windshield of a motor vehicle. The applicant shall remit a fee of one dollar ($1) to the circuit clerk, at which time the clerk shall issue the insignia.

(8) An operator's license as issued pursuant to this section shall be designated a Class D license.

(9) No person shall have more than one (1) license.

Section 10. KRS 186.540 is amended to read as follows:

When ~~[Whenever]~~ any person after applying for or receiving an operator's license moves from the address named in the application or license issued to him or when the name of a licensee is changed, by marriage or otherwise, ***the*** ~~[such]~~ person shall within ten (10) days after the change***, apply to the circuit clerk in his county of residence for the issuance of a corrected license*** ~~[notify the cabinet in writing of his old and new addresses, or his former and new names and the number of any license then held by him]~~.

Section 11. The following KRS section is repealed:

116.125 Purge on county board's own knowledge -- Procedure.

SB 277, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Finance and Administration Cabinet the Office of the Controller. The office shall be attached to the Office of the Secretary of the Finance and Administration for administrative and reporting purposes.

(2) The Office of the Controller shall be headed by an executive director appointed by the Secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the accounting community.

(3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs, assignment and tracking of actual expenditures by code, and coverage issues relating to social security and medicare.

(4) The state controller, the executive director of the Office of Financial Management and Economic Analysis, Finance and Administration Cabinet, and the state budget director, designated under KRS 11.068, shall develop and maintain

the Commonwealth's strategic financial management program.

(5) There are established in the Office of the Controller the Division of Accounts and the Division of Social Security.

(a) The Division of Accounts shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the State Controller. The division shall perform financial record keeping functions at the State Controller's direction, and shall be responsible for:

1. The performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes; and

2. The state government's duties and functions relating to the county fee system and debt issuance for local entities.

(b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the State Controller. The division shall be responsible for the duties of the state agency for social security specified in KRS 61.410 to 61.500.

SECTION 2. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

As used in this chapter and other provisions of law, "state local finance officer" shall mean the commissioner of the Department of Local Government, or his agent designated in writing with the approval of the Governor.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
   - (a) Secretary of State.
   - (b) Board of Elections.
   - (c) Registry of Election Finance.
4. Department of Law.
   - (a) Attorney General.
5. Department of the Treasury.
   - (a) Treasurer.
6. Department of Agriculture.
   - (a) Commissioner of Agriculture.
   - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
   - (a) Department of State Police.
   - (b) Department of Criminal Justice Training.
   - (c) Office of Administration.
   - (d) Department of Corrections.
   - (e) Parole Board.
   - (f) Kentucky State Corrections Commission.

2. Education and Humanities Cabinet:
    (a) Department of Education.
        (1) State Board for Elementary and Secondary Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Department of Law.
    (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Office of Aeronautics.
    (g) Office of General Counsel.
    (h) Office of Public Relations.
    (i) Office of Personnel Management.
    (j) Office of Minority Affairs.
5. Cabinet for Economic Development:
    (a) Department for Existing Business and Industry.
    (b) Tobacco Research Board.
    (c) Kentucky Development Finance Authority.
    (d) Office of Business and Technology.
    (e) Office of Industrial Development.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.
    (e) Department of Mines and Minerals.
    (f) Department of Public Advocacy.
    (g) Department of Alcoholic Beverage Control.
    (h) Kentucky Racing Commission.
    (i) Board of Claims.
    (j) Crime Victims Compensation Board.
    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
7. Cabinet for Human Resources:

(a) Department for Health Services.
(b) Department for Employment Services.
(c) Department for Social Insurance.
(d) Department for Social Services.
(e) Department for Medicaid Services.
(f) Department for Mental Health and Mental Retardation Services.
(g) Unemployment Insurance Commission.
(h) Commission for Handicapped Children.
(i) Public Assistance Appeals Board.
(j) Office of Administrative Services.
(k) Office of Communications.
(l) Office of General Counsel.
(m) Office of Inspector General.
(n) Office of Policy and Budget.
(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Fiscal Affairs.
(c) Office of Historic Properties.
(d) Office of Financial Management and Economic Analysis.
(e) Office of Risk Management.
(f) ***Office of the Controller.***
(g) Department for Administration.
(h)[~~(g)~~] Department of Facilities Management.
(i)[~~(h)~~] Department of Information Systems.
(j)[~~(i)~~] State Property and Buildings Commission.
(k)[~~(j)~~] Kentucky Pollution Abatement Authority.
(l)[~~(k)~~] Kentucky Savings Bond Authority.
(m)[~~(l)~~] Deferred Compensation Systems.
(n)[~~(m)~~] Office of Equal Employment Opportunity Contract Compliance.
(o)[~~(n)~~] Capital Plaza Authority.
(p)[~~(o)~~] County Officials Compensation Board.
(q)[~~(p)~~] Financial Disclosure Review Commission.
(r)[~~(q)~~]Kentucky Employees Retirement Systems.
(s)[~~(r)~~] Commonwealth Credit Union.
(t)[~~(s)~~] State Investment Commission.
(u)[~~(t)~~] Kentucky Housing Corporation.
(v)[~~(u)~~]Governmental Services Center.
(w)[~~(v)~~] Kentucky Local Correctional Facilities Construction Authority.
(x)[~~(w)~~] Kentucky Turnpike Authority.
(y)[~~(x)~~]Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Tax Compliance.
(c) Department of Administrative Services.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult and Technical Education.
(b) Department of Vocational Rehabilitation.
(c) Department for the Blind.
(d) State Board for Adult and Technical Education.
(e) Governor's Council on Vocational Education.
(f) Governor's Commission on Literacy.
(g) The State Board for Proprietary Education.
(h) The GED Foundation.
(i) The Kentucky Occupational Information Coordinating Committee.
(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

Section 4. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of sixty-eight thousand (68,000) or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the ***Department of Local Government*** [~~Finance and Administration Cabinet~~], the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the ***Department of Local Government*** [~~Finance and Administration Cabinet~~].

Section 5. KRS 15.765 is amended to read as follows:

(1) Each county attorney shall receive, for prosecutorial duties, an annual salary to be paid out of the State Treasury which shall be the total compensation as county attorney which he received during the calendar year 1976, but which in no event shall be less than twenty thousand dollars ($20,000). Except, however, the annual salary of each county attorney shall be equal to that of each Commonwealth's attorney who is not prohibited from the private practice of law as provided in KRS 15.755(5), effective January 1, 1990.

(2) Each county attorney shall be paid each month the sum of two hundred fifty dollars ($250), which sum is declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(3) In order to equate the compensation of county attorneys with the purchasing power of the dollar, the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the ***Department of Local Government*** [~~Finance and Administration Cabinet~~], the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the ***Department of Local Government*** [~~Finance and Administration Cabinet~~].

(4) The county attorney shall not be prohibited from engaging in the private practice of law.

Section 6. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Fiscal Affairs, the Office of Financial Management and Economic Analysis, ***the Office of the Controller,*** and the Office of Historic Properties, each of which offices shall be headed by an executive director, the Department for Administration which shall be headed by a commissioner, and the Department for Facilities Management which shall be headed by a commissioner, each of whom shall be responsible to the secretary and appointed by the secretary upon the approval of the Governor. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into such offices, bureaus, divisions, or other units as the secretary may deem necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 7. KRS 42.023 is amended to read as follows:

(1) The Department of Administration of the cabinet established by KRS 42.014 shall be generally responsible for ***any*** [~~such~~] functions and duties [~~as~~] the secretary may assign relating, but not limited to [~~state accounting, accounts control, fiscal reporting, development and coordination of fiscal processes, preauditing of expenditures,~~] supervision of purchasing and store keeping, control of stores, control of personal property and disposition of surplus personal property, printing and reproductions, state forms, postal services, ***and*** technical assistance and advice to state agencies[~~, and accounting, technical and economic assistance to local governments~~].

(2) There shall be established in the Department of Administration [~~a Division of Accounts,~~] a Division of Purchases, a Division of Printing, and a Division of Occupations and Professions, each of which shall be headed by a director

appointed by the commissioner, subject to the approval of the Governor, and who shall be responsible to the commissioner. There may be, if needed, sections assigned to specific areas of work, responsible directly to the commissioner for administration.

Section 8. KRS 42.024 is amended to read as follows:

(1) [~~The Division of Accounts shall perform such financial record keeping functions as the secretary directs and shall in general be responsible for and perform the functions of the cabinet as outlined in KRS 45.305 and 48.800, and other related statutes.~~

~~(2)~~] The Division of Purchases shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The Division of Purchases shall be responsible for the control of all state-purchased personal property and for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.

(2)[~~(3)~~] The secretary of the Finance and Administration Cabinet may establish, charge and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Purchases.

Section 9. KRS 42.025 is amended to read as follows:

[~~(1)~~] The Division of Printing shall be responsible for the printing and duplicating needs of state agencies, as provided by KRS Chapters 45A and 57. The division shall include printing consultants to advise and assist state agencies in advance planning on an annual basis of their printing needs and a forms control unit to review the requirements of state agencies for various kinds of forms and to advise and assist state agencies in forms control, development and revisions.

[~~(2) The Division of County and Municipal Accounting shall be responsible for assisting both county and municipal governments in their financial administration and for providing state revenue sharing funds to these local governments. The division's responsibilities shall include but not be limited to the state local finance office (KRS 42.170), county fee systems, municipal technical assistance (KRS 91A.050), the local government economic assistance fund (KRS 42.450) and the county and municipal road aid fund (KRS 177.369 and 179.410).~~]

Section 10. KRS 42.170 is amended to read as follows:

All of the functions of the state local ***debt*** [~~finance~~] officer provided in KRS Chapters 66 ***and***[~~, 68,~~] 103 [~~and 131~~] relating to the issuance of ***debt obligations*** [~~bonds and control of funds~~] of counties, cities, and other local units [~~and county financial administration~~] shall be exercised by the ***Office of the Controller,*** Finance and Administration Cabinet.

Section 11. KRS 45.031 is amended to read as follows:

(1) Any department, board, commission, agency, advisory council, interstate compact, corporate body, or instrumentality of the Commonwealth of Kentucky applying for federal funds, aids, loans, or grants shall file a summary notification of the intended application with the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] in accordance with the existing A-95 procedures.

(2) When as a condition to receiving [~~such~~] federal funds, the Commonwealth of Kentucky is required to match the federal funds, a statement shall be filed with the notice of intent or summary of the application stating:

(a) The amount and source of state funds needed for matching purposes;

(b) The length of time ***the*** [~~such~~] matching funds shall be required;

(c) The growth of the program;

(d) How the program will be evaluated;

(e) What action will be necessary should the federal funds be canceled, curtailed, or restricted; and

(f) ***Any*** [~~Such~~] other financial and program management data [~~as~~] required by the Finance and Administration Cabinet or by law.

(3) Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the secretary of the Finance and Administration Cabinet, the Legislative Research Commission and the Chief Justice for their respective branches of government or their designated agents prior to its filing with the appropriate federal agency. Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future,

when [~~such~~] funds have not been appropriated for that express purpose, must be approved by the General Assembly, if in session. When the General Assembly is not in session, ***the*** [~~such~~] application shall be reported to and reviewed by the Interim Joint Committee on Appropriations and Revenue, as provided by subsection (4) of KRS 48.500.

(4) When any federal funds, aids, loans, or grants are received by any department, board, commission or agency of the Commonwealth of Kentucky, a report of the amount of funds received shall be filed with the Finance and Administration Cabinet; and this report shall specify the amount of funds which would reimburse an agency for indirect costs as provided for under OMB Circular A-87.

(5) The secretary of the Finance and Administration Cabinet may refuse to issue his warrant for the disbursement of any state or federal funds from the State Treasury as the result of any application which is not approved pursuant to this section, or in regard to which the statement or reports required by this section were not filed.

(6) The secretary of the Finance and Administration Cabinet shall be responsible for the orderly administration of this section and for issuing the appropriate guidelines and regulations from each source of fund used.

Section 12. KRS 61.420 is amended to read as follows:

For the purpose of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of ***the*** [~~such~~] remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for ***those*** [~~such~~] employers, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and the secretary entered into under KRS 61.410 to 61.500; provided, however, that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions, the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employee" means any person in the service of the Commonwealth, a political subdivision or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed;

(4) "State agency" means the ***Division of*** [~~State Office for~~] Social Security, ***Office of the Controller,*** which agency shall be subject to the authority of the secretary of finance and administration;

(5) "Political subdivision," in addition to counties, municipal corporations and school districts, includes instrumentalities of the Commonwealth, of one (1) or more of its political subdivisions or of the Commonwealth and one (1) or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as ***that*** [~~such~~] act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means subchapter A of Chapter 9 of the Federal Internal Revenue Code and all amendments thereto;

(8) "Secretary" means the Secretary of Health, Education and Welfare and includes any individual to whom the secretary may delegate any of his functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the federal security administrator and any individual to whom he may have delegated any of his functions under the Social Security Act;

(9) "Insurance coverage" means coverage by the old-age, survivors and disability insurance provisions of the Social Security Act;

(10) "Sick leave with pay" means any payment made in lieu of salary on account of sickness or accident disability.

Section 13. KRS 65.005 is amended to read as follows:

(1) (a) "Special district" means any agency, authority, or political subdivision of the state which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the state except a city, a county, or a school district.

(b) "Governing body" means the body possessing legislative authority in a city, county, or special district.

(2) No special district shall be legally created without ***sending notification*** [~~notifying~~] of its existence in writing ***to*** [~~in duplicate~~] the clerk of the county within the jurisdiction of which its principal office shall be located. This requirement for notification is in addition to all other provisions of existing law providing for the creation of special districts. ***The*** [~~Such~~] notification shall contain the names and addresses of the members of the governing body of ***the*** [~~any such~~] district,

the name and address of its chief executive officer, a specific reference to the statute or statutes pursuant to which it was created, and a brief description of its service area and activities. The clerk shall record the original and forward ***a*** [~~the duplicate~~] copy of the notification to the state local finance officer, ***Department of Local Government, and the state local debt officer, Office of the Controller,*** Finance and Administration Cabinet. The clerk shall be paid a fee of two dollars ($2) by the district for recording and mailing the notification.

(3) The governing body of any existing special district shall submit notification as required in subsection (2) of this section within thirty (30) days after June 16, 1966, and the governing body of a newly created special district shall submit the required notification at or before its first meeting.

Section 14. KRS 65.070 is amended to read as follows:

(1) By the first day of July of each year, a district shall:

(a) File with the county clerk of each county with territory in the district a certification showing ***any*** [~~such~~] of the following information that has changed since the last filing by the district:

1. The name of the district,
2. A map or general description of its service area,
3. The statutory authority under which it was created, and
4. The names, addresses and the date of expiration of the terms of office of the members of its governing body and chief executive officer;

(b) File a copy of the district budget, financial statement if prepared, and audit when performed, with the county judge/executive of each county with territory in the district;

(c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement which includes the location of supporting documents, or the location of district financial records which may be examined by the public.

(2) The ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.

(3) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with ***its*** [~~such~~] provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 15. KRS 65.7701 is amended to read as follows:

As used in KRS 65.7703 to 65.7721 unless the context otherwise requires:

(1) "Governmental agency" means any county, urban-county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(2) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to act on behalf of a governmental agency.

(3) "Legislation" means an order, resolution, or ordinance of the governing body.

(4) "Notes" means notes authorized by KRS 65.7703 to 65.7721 which may be secured by taxes or revenue or taxes and revenue.

(5) "Revenue" means all funds received by a governmental agency which are not taxes, including, but not limited to, excises, transfers, service fees, assessments, and occupational license fees.

(6) "State local ***debt*** [~~finance~~] officer" means the officer ***so*** designated in KRS 66.045.

(7) "Taxes" means taxes properly levied upon real or personal property.

Section 16. KRS 65.7719 is amended to read as follows:

Without first notifying the state local ***debt*** [~~finance~~] officer in writing, no note shall be valid or obligatory. Notification shall contain the terms of the notes, including the interest rates or method of determining rates, the approximate date of issue, the maturity dates, the trustee or paying agent, if any, and shall include a copy of the certificate of the governmental agency as to taxes or revenues to be collected during the term of the notes. No approval of the state local ***debt*** [~~finance~~] officer shall be required.

Section 17. KRS 65.940 is amended to read as follows:

As used in KRS 65.942 to 65.956, unless the context otherwise requires:

(1) "Acquire" means to purchase, install, equip, or improve personal property or real property pursuant to KRS 65.942 to 65.956.

(2) "City" means any municipal corporation of any class incorporated in the Commonwealth.

(3) "Construct" means building reconstruction, replacement, extension, repairing, betterment, development, equipment, embellishment, or improvement.

(4) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.

(5) "Governmental agency" means any county, urban-county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(6) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to acquire property for each respective governmental agency.

(7) "Lease" means a lease, lease purchase, lease with option to purchase, installment sale agreement, or other similar agreement entered into pursuant to KRS 65.942 to 65.956.

(8) "Lease price" means the total of amounts designated as payments of principal under a lease.

(9) "Net interest cost" means the total of all interest to accrue and fall due through the last payment due date on a lease, plus any discount or minus any premium included in the lease price.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision, or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Personal property" means personal property, appliances, equipment or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of a governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency, but shall not include real property.

(12) "Real property" means land, buildings, fixtures, and interests in real property, deemed by the governing body of the governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency.

(13) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees, assessments, and occupational license fees.

(14) "School district" means any county school district or independent school district organized and existing pursuant to the laws of the Commonwealth.

(15) "Special district" means any agency, authority, or political subdivision of the Commonwealth which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the Commonwealth except a city, county, or school district.

(16) "State local ***debt*** [~~finance~~] officer" means the officer ***so*** designated in KRS 66.045.

(17) "Taxes" means taxes properly levied upon real or personal property.

(18) "Taxing district" means any taxing district created under KRS 65.180 to 65.190.

Section 18. KRS 65.944 is amended to read as follows:

(1) (a) Without first notifying the state local ***debt*** [~~finance~~] officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and ***any*** [~~such~~] other information the state local ***debt*** [~~finance~~] officer may require. The state local ***debt*** [~~finance~~] officer may prescribe a form for providing the information required by this paragraph.

(b) In addition to the notification required by this subsection, no county, except an urban-county, shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local ***debt*** [~~finance~~] officer. The state local ***debt*** [~~finance~~] officer may prescribe procedures and adopt regulations for granting approval of the leases.

(c) In addition to the notification required by this subsection, no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the chief state school officer. The chief state school officer shall recommend administrative regulations to the State Board of Education for implementation of KRS 65.940 to 65.956.

(2) The state local ***debt*** [~~finance~~] officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

Section 19. KRS 66.045 is amended to read as follows:

(1) It is the intent of this section to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest costs.

(2) (a) "Local government" means a county, city, and other special-purpose district, authority, or public corporation, except a school district, within the state, but which exercises less than statewide jurisdiction;

(b) "Governing body" means the board, commission, or other [~~such~~] body charged with exercising the legislative authority of a local government;

(c) "State local ***debt*** [~~finance~~] officer," as used in this chapter and other provisions of law, means the ***state controller,***

Finance and Administration Cabinet, [~~commissioner of the Department of Local Government~~] or his agent designated in writing with the approval of the ***secretary of the Finance and Administration Cabinet*** [~~governor~~];

(d) "Chief financial officer" means the comptroller, treasurer, director of finance or other local government official charged with managing the fiscal affairs of a local government; and

(e) "Bonds," as used anywhere in this chapter, means debt payable more than one (1) year after date of issue or incurrence, issued pursuant to the laws authorizing local government borrowing.

(3) Without first notifying the state local ***debt*** [~~finance~~] officer in writing, no bonds may be issued by or on behalf of any local government. The notification shall contain the maturity schedule, interest rate, date of issue, purpose, paying agent, and ***any*** [~~such~~] other information [~~as~~] the state local ***debt*** [~~finance~~] officer may require to provide a complete file on local government debt.

(4) The state local ***debt*** [~~finance~~] officer may provide technical and advisory assistance regarding the issuance of long-term debt to those local governments whose governing bodies request ***that*** [~~such~~] assistance. ***The*** [~~Such~~] assistance shall include, but need not be limited to:

(a) Advice on the marketing of bonds by local governments;

(b) Conduct of training courses in debt management for local financial officers; and

(c) Promotion of the use by local governments of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

Section 20. KRS 66.280 is amended to read as follows:

(1) Whenever used in KRS 66.300 to 66.390, unless the context requires otherwise:

(a) "Commission" means the County Debt Commission as hereinafter established;

(b) "State local ***debt*** [~~finance~~] officer" means the ***state controller, Finance and Administration Cabinet,*** [~~commissioner of the Department of Local Government~~] or his agent designated in writing with the approval of the ***secretary of the Finance and Administration Cabinet*** [~~governor~~];

(c) "Fiscal court" means the county judge/executive and the justices of the peace or the county judge/executive and the commissioners of the county;

(d) "Funding bonds" or "funded indebtedness" means bonds issued to fund floating indebtedness, or reissues thereof;

(e) "Road and bridge bonds" means county road and bridge bonds issued under the authorization of Section 157a of the Constitution of Kentucky, or reissues thereof; and

(f) "Refunding bonds" means bonds issued for the purpose of reissuing or renewing outstanding bonds.

(2) KRS 66.280 to 66.390 may be cited as the "County Debt Act."

Section 21. KRS 66.300 is amended to read as follows:

(1) There shall be a County Debt Commission, consisting of the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Secretary of State, the Attorney General, the commissioner of the Department of Highways, the secretary of the Finance and Administration Cabinet, and the secretary of the Revenue Cabinet. The Governor shall be chairman and the Lieutenant Governor shall be vice chairman. When the Governor is absent from Frankfort, the Lieutenant Governor shall be chairman, and when both the Governor and the Lieutenant Governor are absent from Frankfort, the secretary of the Finance and Administration Cabinet shall be chairman. The state local ***debt*** [~~finance~~] officer shall serve as secretary of the commission. Each member shall serve without additional compensation, and each member except the Governor and Lieutenant Governor may, by advising the Governor in writing, authorize an executive officer of the department of which he is head to act for him as a member of the commission.

(2) The chairman may, at his discretion, call meetings of the commission and designate the time and place of the meeting. The chairman and four (4) other members of the commission shall constitute a quorum. The commission, by a majority vote of the quorum present, may adopt appropriate [~~rules and~~] regulations for the enforcement of KRS 66.280 to 66.390, hear and dispose of appeals from rulings of the state local ***debt*** [~~finance~~] officer, and perform the other duties imposed upon it.

(3) The commission may hold public hearings on any question before it, or the chairman may appoint a committee of the commission or a referee to hold the hearing with instructions to report any findings or recommendations to the commission. The officials or taxpayers of a county or the creditors thereof having a material interest in any hearing before the commission shall, upon their demand, be heard.

(4) The commission shall study the problems of county finance in Kentucky and other states for the purpose of making recommendations to the Legislative Research Commission and the General Assembly. The commission may require the state local ***debt*** [~~finance~~] officer to prepare studies on designated subjects, and to publish ***the*** [~~such~~] studies [~~as~~] it directs ***to be published,*** and to supply any available information and make ***any*** [~~such~~] special inquiries or investigations [~~as~~] it deems necessary.

(5) Any county aggrieved by a ruling of the state local ***debt*** [~~finance~~] officer may within fifteen (15) days thereafter appeal to

the commission. The decision of the commission shall be final except as otherwise provided in KRS 66.280 to 66.390.

Section 22. KRS 66.310 is amended to read as follows:

(1) No county may contract an indebtedness which, together with all other indebtedness of the county, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding complete assessment, and issue valid bonds therefor, without having first secured the written approval of the state local ***debt*** [~~finance~~] officer. Any other bonds to be issued or reissued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local ***debt*** [~~finance~~] officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue or reissue of county bonds voluntarily as provided in this section, all bonds thereafter issued or reissued by the county must be approved as provided in this section.

(2) Without the approval of the state local ***debt*** [~~finance~~] officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless ***the*** [~~such~~] bonds, if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If ***his*** [~~such~~] approval is required, the state local ***debt*** [~~finance~~] officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under subsection (3), and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if ***those bonds*** [~~the same shall~~] have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.

(3) The state local ***debt*** [~~finance~~] officer shall hold a hearing for the purpose of determining whether any issue or reissue of bonds submitted to him for approval should be approved or disapproved. The state local ***debt*** [~~finance~~] officer shall withhold his approval if he believes the financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county; if, in his discretion, the issue or reissue of bonds will not serve the best interests of both the county issuing ***the bonds*** [~~same~~] and a majority of its creditors; or if it appears that the bonds or the issuance thereof will be invalid. If the state local ***debt*** [~~finance~~] officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local ***debt*** [~~finance~~] officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be ***sufficient*** [~~such as~~] to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.

(4) The state local ***debt*** [~~finance~~] officer shall give at least two (2) weeks' notice of the hearing [~~herein above~~] required ***by subsection (2) or (3) of this section*** to the county judge/executive of the county proposing to issue [~~such~~] bonds, and the county judge/executive shall cause a copy of ***that*** [~~said~~] notice to be published pursuant to KRS Chapter 424. In the case of bonds ***having a principal amount in excess of ten million dollars ($10,000,000),*** proposed to be issued for the purpose of refunding currently outstanding bonds, the state local ***debt*** [~~finance~~] officer shall, in addition, cause a notice of the hearing to be published pursuant to KRS Chapter 424, and at least ten (10) days, exclusive of Sundays and holidays, prior to the date set for the hearing, in a financial newspaper or periodical having general circulation among bondholders and bond dealers, and ***the*** [~~said~~] notice shall be paid for by the Finance and Administration Cabinet out of its appropriation. Any party having a material interest shall have an opportunity to be heard and to present evidence. The state local ***debt*** [~~finance~~] officer shall make a record of the proceedings of ***the*** [~~such~~] hearing and shall prepare a written decision approving or disapproving the issuance of the proposed bonds. Any interested party or taxpayer may within fifteen (15) days, exclusive of Sundays and holidays, appeal to the commission from the decision of the state local ***debt*** [~~finance~~] officer. The commission, upon the basis of the record prepared by the state local ***debt*** [~~finance~~] officer, and of any additional evidence which may be introduced, shall pass upon the decision of the state local ***debt*** [~~finance~~] officer.

(5) Within thirty (30) days, exclusive of Sundays and holidays, after a decision by the commission, any interested party or taxpayer of the county, upon filing bond for costs, may appeal to the Franklin Circuit Court or, in the case only of bonds proposed to be issued for the purpose of funding floating indebtedness, to either the Franklin Circuit Court or to the Circuit Court of the county proposing to issue ***those*** [~~said~~] bonds. Appeal shall be taken by filing with the clerk of the court a copy of the record of the proceedings and decision of the state local ***debt*** [~~finance~~] officer and the decision of the commission. The commission, the fiscal court, the taxpayers of the county, and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. To facilitate adjudication, the state local ***debt*** [~~finance~~] officer ***shall*** [~~is hereby required~~], on payment of a reasonable fee therefor to be fixed by the state local ***debt*** [~~finance~~] officer, [~~to~~] supply a certified copy of ***the*** [~~such~~] records to any party. The case shall be advanced on the docket of the Circuit Court and shall be heard and decided as in the case of a declaratory judgment, except that all findings of fact of the state local ***debt*** [~~finance~~] officer and of the commission shall be final if supported by

any substantial evidence***;***[~~, provided,~~] however, ***if only*** [~~that in the case only where~~] the question of the validity of the indebtedness proposed to be funded or refunded is in issue, additional evidence relating to the validity of ***the*** [~~such~~] indebtedness may be presented.

(6) An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

(7) ***If*** [~~In case~~] no appeal is taken from the approval of a bond issue by the state local ***debt*** [~~finance~~] officer or the commission as provided in this section, ***the*** [~~said~~] decision as to the legality of ***the*** [~~such~~] bonds shall be res adjudicata in any subsequent case or cases raising ***the*** [~~such~~] question of ***their*** legality. When bonds are approved as provided in this section, they shall not be required to be approved as provided in KRS 66.210 and 66.220.

(8) Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local ***debt*** [~~finance~~] officer and of the commission shall be filed with the Secretary of State.

Section 23. KRS 66.320 is amended to read as follows:

Any county, upon petition of its fiscal court, is entitled as a matter of right to the assistance of the state local ***debt*** [~~finance~~] officer in formulating a plan for reorganizing its debt structure. When any county is in default on the principal or interest of any indebtedness, or gives evidence of becoming unable to meet principal or interest maturities on any funded indebtedness within a reasonable time, or has an indebtedness which might, with advantage to the county, be funded or refunded, the state local ***debt*** [~~finance~~] officer may investigate the debt situation and credit standing of the county and negotiate with officials and creditors of the county for the purpose of formulating a plan for issuing or reissuing bonds.

Section 24. KRS 66.330 is amended to read as follows:

(1) The order of the fiscal court of any county providing for the issue or reissue and sale of any bonds shall specify: (a) the maximum amount to be issued, (b) the denominations in which the bonds shall be issued, (c) the maximum interest rate to be paid on the bonds, (d) the term of the bonds (if serial, a fully detailed principal maturity schedule shall be shown), and ***any*** [~~such~~] other information [~~as~~] the commission may***,*** by regulation***,*** require. A certified copy of ***the*** [~~such~~] order shall be submitted to the state local ***debt*** [~~finance~~] officer, who shall expedite approval or disapproval if requested or if required by KRS 66.310.

(2) All county bonds offered for sale shall be advertised for sealed competitive bids by publication pursuant to KRS Chapter 424, and shall be sold by the fiscal court to the bidder at ***the*** [~~such~~] sale offering the price and interest rate most advantageous to the county. Nothing herein shall prohibit a county from exchanging reissues of bonds by private arrangements with the bondholders, subject to the approval of the state local ***debt*** [~~finance~~] officer, but ***any*** [~~such~~] bonds received at exchange ***shall*** [~~must~~] be taken in at par value or less.

(3) The costs of advertising, printing, and any other necessary expenses incident to the issue and sale of county bonds, excepting and excluding those incurred by the state local ***debt*** [~~finance~~] officer or any member of his staff and the commission, shall be borne by the county issuing the bonds, and may be deducted from any premium received on the sale of the bonds.

Section 25. KRS 66.340 is amended to read as follows:

The state local ***debt*** [~~finance~~] officer shall specify the place or places of payment of all principal and interest of county bonds approved as provided in KRS 66.310.

Section 26. KRS 66.350 is amended to read as follows:

The state local ***debt*** [~~finance~~] officer may require the registration with him of any bonds approved as provided in KRS 66.310. The commission may prescribe appropriate [~~rules and~~] regulations governing the registration of bonds.

Section 27. KRS 66.360 is amended to read as follows:

(1) There shall be a county road and bridge revolving fund, to which there shall be made available, at the request of the commission and subject to the approval of the [~~director of the budget of the~~] Finance and Administration Cabinet as to the availability of funds, ***the*** [~~such~~] amounts from the bank cash balance in the general expenditure fund as will not cause the revolving fund to exceed the gross amount of five hundred thousand dollars ($500,000) at any one (1) time, including sums owing to the revolving fund and not repaid. The state local ***debt*** [~~finance~~] officer, subject to the approval of the commission, may use as much of the revolving fund as is needed for the purchase of approved county road and bridge bonds, or for loans to counties for the redemption of matured road and bridge bonds if the county has ordered the issuance of refunding bonds approved by the state local ***debt*** [~~finance~~] officer. The commission shall disapprove the loan or purchase if, in its opinion, the method by which the revolving fund is to be reimbursed does not protect the fund from all losses, or if funds are not available for the loan or purchase, or if, in its opinion, the purchase or loan is for any other reason not for the best interest of the state and of the county issuing the bonds.

(2) Receipts from bonds sold by the fiscal court for the purpose of reimbursing the revolving fund for money borrowed from it to redeem matured bonds, and receipts from bonds sold by the state local ***debt*** [~~finance~~] officer, shall be paid to the state local ***debt*** [~~finance~~] officer for deposit with the state treasurer in the revolving fund. An amount equal to the amount

paid by the state local ***debt*** [~~finance~~] officer for the bonds or lent to the county shall be credited to the revolving fund; the remainder, if any, shall, when authorized by the state local ***debt*** [~~finance~~] officer, be credited to the account of that county in the county sinking fund provided for in KRS 66.370.

Section 28. KRS 66.370 is amended to read as follows:

(1) On or before the fifteenth day of July of each year, the county judge/executive of each county in this Commonwealth shall, for the fiscal year immediately preceding, deliver to the state local ***debt*** [~~finance~~] officer a report showing for the county the total amounts of each and every issue of outstanding bonds and the amount of unfunded debt, if any, together with the interest rate or rates of all indebtedness, sinking fund balances, sinking fund investments or deposits and earnings, payments of debt principal and interest, and ***any*** [~~such~~] other information respecting indebtedness, whether or not herein enumerated, as the commission may***,*** by regulation***,*** require.

(2) A county may, by order of its fiscal court, surrender to the state local ***debt*** [~~finance~~] officer all money in hand, notes, bonds, accounts or other credits representing assets available, and ***any*** [~~such~~] other sums which may hereafter become available from any and all sources, for paying the principal and interest of any bonded debt of the county; [~~Provided,~~] however, [~~that~~] if a county surrenders the sinking fund for any bond issue payable either from the tax levy authorized by Section 157 or by Section 157a of the Constitution of Kentucky or from any special tax levy authorized by law, it ***shall also*** [~~must~~] surrender [~~also~~] the sinking funds for all other bonds payable from the same tax levy as herein defined. ***The*** [~~Such~~] surrender shall be irrevocable on the part of the county. [~~Provided further, that~~] Any county which has a bond issue approved under [~~the provisions of~~] KRS 66.310 ***shall*** [~~is required to~~] comply with the provisions of this subsection with respect to the sinking funds for the bonds thus approved and for any other bonds payable from the same tax levy as herein defined. The county judge/executive of any county complying with the provisions of this subsection ***shall be*** [~~is hereby~~] relieved of the requirement to submit the annual reports [~~hereinabove~~] specified in ***subsection (1) of*** this section insofar as these apply to bonded debts, the sinking funds for which have been surrendered to the state local ***debt*** [~~finance~~] officer.

(3) All cash [~~so~~] received ***under this section*** by the state local ***debt*** [~~finance~~] officer shall be deposited with the State Treasurer to the credit of a fund designated the "county sinking fund." All assets other than cash shall be deposited with the State Treasurer and shall be liquidated, upon authorization of the commission, within a reasonable time.

(4) The county treasurer of any county complying with the provisions of this section shall remit monthly to the state local ***debt*** [~~finance~~] officer all moneys received from any tax levy made for the exclusive purpose of paying principal and interest on any bonds. Any moneys appropriated in the county budget from any other source or any moneys required by law to be used for the same purpose shall be remitted as required for paying any principal ***or*** [~~and/or~~] interest maturities***, or both,*** or meeting sinking fund requirements. The state local ***debt*** [~~finance~~] officer ***may*** [~~is authorized to~~] institute actions in the Franklin Circuit Court to enforce the provisions of this subsection or to recover any [~~such~~] funds ***that*** [~~as~~] may have been misapplied.

(5) Accounts showing the county sinking fund receipts and disbursements shall be kept by the state local ***debt*** [~~finance~~] officer for each bond issue of each county for which deposits are made in ***the*** [~~said~~] fund. As of the close of the county fiscal year the state local ***debt*** [~~finance~~] officer shall, within thirty (30) days thereafter, render to the county judge/executive of each county having deposits in ***the*** [~~said~~] fund a statement thereof for each bond issue of that county. On or about the first day of May of each year, the state local ***debt*** [~~finance~~] officer shall deliver to the county judge/executive an estimate of the principal and interest requirements of outstanding bonds issued by ***that*** [~~said~~] county or of the proportionate annual amount which should be deposited in a sinking fund.

(6) Disbursements from the county sinking fund shall, when authorized by the state local ***debt*** [~~finance~~] officer, be made in the same manner as other claims on the Commonwealth are paid. Disbursements may be made only for***:***

(a) The payment of principal or interest, or both, of the bonds for which the deposit was made, and

(b) The investment of ***the*** [~~such~~] funds as [~~is hereinafter~~] authorized ***in KRS 66.380***.

(7) All coupons and bonds for the payment of which deposits are made in the county sinking fund shall be paid either directly by the state local ***debt*** [~~finance~~] officer or by the bank designated as paying agent. ***That*** [~~Such~~] bank may be paid a reasonable fee for ***its*** [~~such~~] services by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] out of its appropriation. All paid bonds and coupons shall be surrendered to the state local ***debt*** [~~finance~~] officer and canceled, and shall be delivered to the judge/executive of each county along with the annual statement provided for in this section.

Section 29. KRS 66.380 is amended to read as follows:

(1) The state local ***debt*** [~~finance~~] officer, with the approval of the commission, shall have authority to invest any funds accrued to the county sinking fund and the fiscal court shall have authority to invest any funds accrued to and maintained in a county sinking fund which are not needed to meet interest and principal maturities on county debts within the next succeeding twelve (12) months in obligations secured by the credit of the United States government, or in warrants of the Commonwealth of Kentucky, or in road and bridge bonds of any county of the Commonwealth which have been approved by the commission for such investment, provided that the securities thus purchased shall become payable before the

money with which they were purchased shall be required for meeting obligations of the sinking fund. Nothing in this section shall prevent a county or the state local ***debt*** ~~[finance]~~ officer from purchasing any bonds, at a price which will result in a saving to the county, prior to their maturity date with sinking fund moneys created for their redemption; ***if the*** ~~[provided, that such]~~ moneys are not required for the redemption of bonds maturing prior to those purchased, and ***if*** ~~[provided further that]~~ bonds so purchased ***are*** ~~[shall be]~~ canceled and interest thereon ***ceases*** ~~[shall cease]~~.

(2) Any earnings or losses of the county sinking fund shall be charged or credited as of July 1 of each year among the counties maintaining deposits therein in the ratio which the largest amount in any sinking fund account continuously on deposit for a period of six (6) months during the twelve (12) months preceding allocation bears to the sum of ***these*** ~~[such]~~ amounts for all sinking fund accounts.

Section 30. KRS 66.390 is amended to read as follows:

Ownership of obligations of Kentucky counties shall disqualify the ***state controller, Finance and Administration Cabinet,*** ~~[commissioner of the Department of Local Government]~~ or any of his appointees from serving in any capacity incident to the administration of KRS 66.280 to 66.380, or KRS 68.220, 68.250, 68.270, 68.280, 68.310, or 68.320.

Section 31. KRS 66.400 is amended to read as follows:

Any taxing agency or instrumentality as defined in Chapter IX of the Federal Bankruptcy Act as amended by the Acts of Congress of August 16, 1937, Chapter 657, June 22, 1938, Chapter 575, March 4, 1940, Chapter 41, June 28, 1940, Chapter 438 and acts amendatory and supplementary thereto or acts extending the date of expiration thereof, as the same may be amended or extended from time to time, ***may*** ~~[is hereby authorized to]~~ file a petition for the composition of its debts and to do all things necessary to comply with the provisions of the Federal Bankruptcy Act***.***~~[: provided, however, that]~~ No county ***shall*** ~~[is authorized to]~~ file a petition as provided in the Federal Bankruptcy Act unless the proposed plan is first approved by the ***state local debt officer and the*** state local finance officer***, as defined in Section 2 of this Act.*** ~~[and provided further, that]~~ No changes or modifications shall be made in the plan of composition after the filing of the petition without the approval of the ***state local debt officer and the*** state local finance officer. The ***state local debt officer*** state local finance officer shall approve or disapprove the proposed plan of composition or any changes or modifications thereof under the same procedure and for the same reasons as bonds are approved or disapproved ***under*** ~~[by him as is provided in]~~ KRS 66.280 to 66.390.

Section 32. KRS 66.480 is amended to read as follows:

(1) The governing body of a municipality, county, school district (provided that its general procedure for action is approved by the State Board for Elementary and Secondary Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including ~~[such]~~ obligations subject to repurchase agreements, ***if*** ~~[provided that]~~ delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. ***These*** ~~[Such]~~ investments may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in Kentucky;

(b) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(c) Any savings and loan association insured by an agency of the government of the United States up to the amount so insured;

(d) Interest-bearing deposits in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts, ***if the*** ~~[providing such]~~ bank shall pledge as security, obligations as permitted by KRS 41.240(4), having a current quoted market value at least equal to any uninsured deposits. No municipality, county, school district, other unit of local government, political subdivision, or county official shall make any investment which would jeopardize the tax-exempt status of any outstanding obligation of ***that*** ~~[such]~~ unit of local government; and

(e) Shares of mutual funds, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;

2. The management company of the investment company shall have been in operation for at least five (5) years; and

3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section.

(2) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320, and 160.510, in the investment instruments permitted by subsection (1) of this section.

(3) The provisions of this section are not intended to impair the power of a county official, municipality, county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking

institutions as otherwise authorized by law.

(4) The governing body or county official may delegate the investment authority provided by subsection (1) of this section to the treasurer or other financial officer charged with custody of the funds of the local government, and ***that*** [~~such~~] officer shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(5) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(6) The state local ***debt*** [~~finance~~] officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to [~~such~~] county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request ***that*** [~~such~~] assistance.

(7) (a) The state local ***debt*** [~~finance~~] officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local ***debt*** [~~finance~~] officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local ***debt*** [~~finance~~] officer creates an investment pool, he shall establish an account in the Treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local ***debt*** [~~finance~~] officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(c) and (d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(8) (a) With the approval of the State Board for Elementary and Secondary Education, local boards of education, or ***any*** [~~such~~] of them ***that*** [~~as may~~] desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the State Board for Elementary and Secondary Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The State Board for Elementary and Secondary Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

Section 33. KRS 83A.075 is amended to read as follows:

(1) In order to equate the compensation of mayors and members of city legislative bodies with the purchasing power of the dollar, the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the mayor in cities of the first class shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum and mayors in cities other than the first class and legislative body members shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum.

(2) The legislative body of the city shall set the compensation of the officer in accordance with KRS 83A.070 at a rate no greater than that stipulated by the ***Department of Local Government*** [~~Finance and Administration Cabinet~~].

Section 34. KRS 103.286 is amended to read as follows:

(1) The Kentucky Private Activity Bond Allocation Committee is established. The purpose of the committee shall be to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of private activity bonds, as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of the bonds imposed by the Tax Reform Act of 1986, 26 U.S.C. sec. 146. The committee shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of the Finance and Administration Cabinet, who shall be chairman of the committee; the secretary of the Cabinet for Economic Development; the state budget director; the ***state controller, Finance and Administration Cabinet; and the secretary of the Governor's Cabinet*** [~~executive director of the Office for Program Administration; and the commissioner of the Department of Local Government~~], or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of ***private activity*** [~~such~~] bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

  (a) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the first seventy-five percent (75%) of the term shall be designated as a period in which the committee shall provide that no less than sixty percent (60%) of the private activity cap be reserved for local bond issuance authorities.

  (b) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the last twenty-five percent (25%) of the term shall be designated by the committee as the period in which the remaining unallocated cap shall revert to a single pool to be allocated on a first-come, first-serve basis to state and local governments.

(3) The secretary of the Finance and Administration Cabinet shall promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of the bonds within the Commonwealth of Kentucky.

(4) No bonds governed by this section shall be issued that are not in compliance with the state ceiling, subsections (2)(a) and (b) of this section, or with the allocation, application, or review procedures established by the secretary of the Finance and Administration Cabinet.

Section 35. KRS 147A.020 is amended to read as follows:

(1) The state local ***debt officer within the Office of the Controller, Finance and Administration Cabinet and the state local*** finance officer ***within the Department of Local Government*** shall exercise ***the following*** [~~all~~] administrative functions of the state***:***

  (a) The state local debt officer shall exercise all administrative functions as provided in the county debt act, KRS 66.280 to 66.390, and administrative functions relating to local government bonds as provided in KRS 66.045; and

  (b) The state local finance officer shall exercise all administrative functions regarding county and local government budgets, as provided in KRS 68.210 to 68.360.

(2) The state local debt officer shall have the following powers and duties:

  (a) To require reports from local governments to enable him to adequately provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which the state local debt officer shall keep open for public inspection at the Office of the Controller;

  (b) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids;

  (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government, to enable the state local debt officer to carry out his duties under this section; and

(d) To compile and publish annually a report which shall include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.

(3) The state local finance officer shall have the following powers and duties:

(a) To coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, general revenue sharing for local government;

(b) To provide technical assistance and information to units of local government on matters including, but not limited to, fiscal management, purchases, and contracts; and

(c) To conduct training programs to instruct county and other local officials respecting their duties and responsibilities in the collection, expenditure, and management of public moneys subject to their control and jurisdiction [~~as provided in the county debt act, KRS 66.280 to 66.390; as regards county and local government budgets as provided in KRS 68.210 to 68.360; and as to local government bonds as provided in KRS 66.045.~~

~~(2) The state local finance officer, except as provided in KRS 147A.025(1), shall have the following powers and duties:~~

~~(a) To require such reports from local governments as will enable him adequately to provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which shall be kept open for public inspection at the state local finance offices.~~

~~(b) To conduct training programs to instruct county and local government officials respecting their duties and responsibilities in the collection, expenditure and management of public moneys subject to their control and jurisdiction.~~

~~(c) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids.~~

~~(d) To request such assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the state local finance officer to carry out his duties under this section.~~

~~(e) To compile and publish annually a report which shall include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.~~

~~(3) The state local finance officer shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to general revenue sharing for local government.~~

~~(4) The state local finance officer shall provide technical assistance and information to units of local government, including but not limited to:~~

~~(a) Fiscal management; and~~

~~(b) Purchases and contracts~~].

Section 36. KRS 147A.021 is amended to read as follows:

(1) The Department of Local Government shall have the following powers and duties:

(a) To require *any* [~~such~~] reports from local governments *that* [~~as~~] will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request [~~such~~] assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department of Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to*,* the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department of Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments; *and*

(m) The urban development office.

(4) The Department of Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

Section 37. The General Assembly confirms Executive Order 93-1142, issued November 23, 1993, to the extent that it is not otherwise confirmed by this Act.

The Committee Substitute to **SB 277** is as follows:

SB 277, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Finance and Administration Cabinet the Office of the Controller. The office shall be attached to the Office of the Secretary of the Finance and Administration for administrative and reporting purposes.

(2) The Office of the Controller shall be headed by an executive director appointed by the Secretary of the Finance and Administration Cabinet with the approval of the Governor. The executive director shall function as the state controller, who shall be a person qualified by education and experience for the position and held in high professional esteem in the accounting community.

(3) The state controller shall be the Commonwealth's chief accounting officer and shall be responsible for all aspects of accounting policies and procedures, financial accounting systems, and internal accounting control policies and procedures. The Office of the Controller shall establish guidelines for state personnel administration on issues relating to paycheck distribution dates, assignment of data elements to accurately report labor costs, assignment and tracking of actual expenditures by code, and coverage issues relating to social security and medicare.

(4) The state controller, the executive director of the Office of Financial Management and Economic Analysis, Finance and Administration Cabinet, and the state budget director, designated under KRS 11.068, shall develop and maintain the Commonwealth's strategic financial management program.

(5) There are established in the Office of the Controller the Division of Accounts and the Division of Social Security.

(a) The Division of Accounts shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor. The director shall report directly to the State Controller. The division shall perform financial record keeping functions at the State Controller's direction, and shall be responsible for:

1. The performance of the cabinet's functions outlined in KRS 45.305, 48.800, and other related statutes; and

2. The state government's duties and functions relating to the county fee system and debt issuance for local entities.

(b) The Division of Social Security shall be headed by a director appointed by the secretary of the Finance and Administration Cabinet pursuant to KRS 12.050. The director shall report directly to the State Controller. The division shall be responsible for the duties of the state agency for social security specified in KRS 61.410 to 61.500.

SECTION 2. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

As used in this chapter and other provisions of law, "state local finance officer" shall mean the commissioner of the Department of Local Government, or his agent designated in writing with the approval of the Governor.

Section 3. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Office of Administration.
        (d) Department of Corrections.
        (e) Parole Board.
        (f) Kentucky State Corrections Commission.
    2. Education and Humanities Cabinet:
        (a) Department of Education.
            (1) State Board for Elementary and Secondary Education.
            (2) Education Professional Standards Board.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.
        (d) Kentucky Educational Television.
        (e) Kentucky Historical Society.
        (f) Kentucky Teachers' Retirement System Board of Trustees.
    3. Natural Resources and Environmental Protection Cabinet:
        (a) Environmental Quality Commission.
        (b) Kentucky Nature Preserves Commission.
        (c) Department for Environmental Protection.
        (d) Department for Natural Resources.
        (e) Department for Surface Mining Reclamation and Enforcement.
        (f) Department of Law.

   (g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
   (a) Department of Highways.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Office of Aeronautics.
   (g) Office of General Counsel.
   (h) Office of Public Relations.
   (i) Office of Personnel Management.
   (j) Office of Minority Affairs.
5. Cabinet for Economic Development:
   (a) Department for Existing Business and Industry.
   (b) Tobacco Research Board.
   (c) Kentucky Development Finance Authority.
   (d) Office of Business and Technology.
   (e) Office of Industrial Development.
6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Racing Commission.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Backside Improvement Commission.
7. Cabinet for Human Resources:
   (a) Department for Health Services.
   (b) Department for Employment Services.
   (c) Department for Social Insurance.
   (d) Department for Social Services.
   (e) Department for Medicaid Services.
   (f) Department for Mental Health and Mental Retardation Services.
   (g) Unemployment Insurance Commission.
   (h) Commission for Handicapped Children.
   (i) Public Assistance Appeals Board.
   (j) Office of Administrative Services.
   (k) Office of Communications.
   (l) Office of General Counsel.
   (m) Office of Inspector General.
   (n) Office of Policy and Budget.
   (o) Office of the Ombudsman.
8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.
(b) Office of Management and Fiscal Affairs.
(c) Office of Historic Properties.
(d) Office of Financial Management and Economic Analysis.
(e) Office of Risk Management.
(f) ***Office of the Controller.***
(g) Department for Administration.
(h)[~~(g)~~] Department of Facilities Management.
(i)[~~(h)~~] Department of Information Systems.
(j)[~~(i)~~] State Property and Buildings Commission.
(k)[~~(j)~~] Kentucky Pollution Abatement Authority.
(l)[~~(k)~~] Kentucky Savings Bond Authority.
(m)[~~(l)~~] Deferred Compensation Systems.
(n)[~~(m)~~] Office of Equal Employment Opportunity Contract Compliance.
(o)[~~(n)~~] Capital Plaza Authority.
(p)[~~(o)~~] County Officials Compensation Board.
(q)[~~(p)~~] Financial Disclosure Review Commission.
(r)[~~(q)~~] Kentucky Employees Retirement Systems.
(s)[~~(r)~~] Commonwealth Credit Union.
(t)[~~(s)~~] State Investment Commission.
(u)[~~(t)~~] Kentucky Housing Corporation.
(v)[~~(u)~~] Governmental Services Center.
(w)[~~(v)~~] Kentucky Local Correctional Facilities Construction Authority.
(x)[~~(w)~~] Kentucky Turnpike Authority.
(y)[~~(x)~~] Historic Properties Advisory Commission.

9. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor Management Relations.
    (m) Office of General Counsel.
10. Revenue Cabinet:
    (a) Department of Property Taxation.
    (b) Department of Tax Compliance.
    (c) Department of Administrative Services.
11. Tourism Cabinet:
    (a) Department of Travel Development.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult and Technical Education.
(b) Department of Vocational Rehabilitation.
(c) Department for the Blind.
(d) State Board for Adult and Technical Education.
(e) Governor's Council on Vocational Education.
(f) Governor's Commission on Literacy.
(g) The State Board for Proprietary Education.
(h) The GED Foundation.
(i) The Kentucky Occupational Information Coordinating Committee.
(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

Section 4. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of sixty-eight thousand (68,000) or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the ***Department of Local Government*** [~~Finance and Administration Cabinet~~], the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the ***Department of Local Government*** [~~Finance and Administration Cabinet~~].

Section 5. KRS 15.765 is amended to read as follows:

(1) Each county attorney shall receive, for prosecutorial duties, an annual salary to be paid out of the State Treasury which

shall be the total compensation as county attorney which he received during the calendar year 1976, but which in no event shall be less than twenty thousand dollars ($20,000). Except, however, the annual salary of each county attorney shall be equal to that of each Commonwealth's attorney who is not prohibited from the private practice of law as provided in KRS 15.755(5), effective January 1, 1990.

(2) Each county attorney shall be paid each month the sum of two hundred fifty dollars ($250), which sum is declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(3) In order to equate the compensation of county attorneys with the purchasing power of the dollar, the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the ***Department of Local Government*** [~~Finance and Administration Cabinet~~], the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the ***Department of Local Government*** [~~Finance and Administration Cabinet~~].

(4) The county attorney shall not be prohibited from engaging in the private practice of law.

Section 6. KRS 24A.193 is amended to read as follows:

The ***Finance and Administration Cabinet*** [~~Department of Local Government~~] shall promulgate ***administrative*** [~~rules and~~] regulations***, pursuant to KRS Chapter 13A,*** to carry out the provisions of KRS 24A.191 and 24A.192.

Section 7. KRS 29A.180 is amended to read as follows:

(1) The sheriff, city police or city marshal, as appropriate, shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in Circuit Court and in District Court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for ***these*** [~~such~~] services shall be borne by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] and ***the*** [~~such~~] officer shall be reimbursed in accordance with ***administrative*** regulations issued by the ***Finance and Administration Cabinet, pursuant to KRS Chapter 13A*** [~~Department of Local Government~~].

(2) The sheriff, city police***,*** or city marshal, as appropriate, shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 20A.310. In criminal cases the expenses for ***these*** [~~such~~] services shall be borne by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] and the sheriff shall be reimbursed in accordance with ***administrative*** regulations issued by the ***Finance and Administration Cabinet, pursuant to KRS Chapter 13A*** [~~Department of Local Government~~]. Excepting views conducted under the Eminent Domain Act of Kentucky, in civil cases these expenses shall be paid by the party requesting the viewing.

(3) The sheriff, city police***,*** or city marshal, as appropriate, shall be responsible for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for ***these*** [~~such~~] services shall be borne by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] and ***the*** [~~such~~] officer shall be reimbursed in accordance with ***administrative*** regulations issued by the ***Finance and Administration Cabinet, pursuant to KRS Chapter 13A*** [~~Department of Local Government~~]. In such cases***,*** the judge may also request the Chief Justice to provide the services of the Kentucky State Police to ensure proper security precautions relating to the case.

Section 8. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Fiscal Affairs, the Office of Financial Management and Economic Analysis, ***the Office of the Controller,*** and the Office of Historic Properties, each of which offices shall be headed by an executive director, the Department for Administration which shall be headed by a commissioner, and the Department for Facilities Management which shall be headed by a commissioner, each of whom shall be responsible to the secretary and appointed by the secretary upon the approval of the Governor. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into such offices, bureaus, divisions, or other units as the secretary may deem necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 9. KRS 42.023 is amended to read as follows:

(1) The Department of Administration of the cabinet established by KRS 42.014 shall be generally responsible for ***any*** [~~such~~] functions and duties [~~as~~] the secretary may assign relating, but not limited to [~~state accounting, accounts control,~~

~~fiscal reporting, development and coordination of fiscal processes, preauditing of expenditures,~~] supervision of purchasing and store keeping, control of stores, control of personal property and disposition of surplus personal property, printing and reproductions, state forms, postal services, ***and*** technical assistance and advice to state agencies[~~, and accounting, technical and economic assistance to local governments~~].

(2) There shall be established in the Department of Administration [~~a Division of Accounts,~~] a Division of Purchases, a Division of Printing, and a Division of Occupations and Professions, each of which shall be headed by a director appointed by the commissioner, subject to the approval of the Governor, and who shall be responsible to the commissioner. There may be, if needed, sections assigned to specific areas of work, responsible directly to the commissioner for administration.

Section 10. KRS 42.024 is amended to read as follows:

(1) [~~The Division of Accounts shall perform such financial record keeping functions as the secretary directs and shall in general be responsible for and perform the functions of the cabinet as outlined in KRS 45.305 and 48.800, and other related statutes.~~

~~(2)~~] The Division of Purchases shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The Division of Purchases shall be responsible for the control of all state-purchased personal property and for the disposition of all personal property of the state declared surplus. The division shall be the single state agency of the Commonwealth of Kentucky that may receive, warehouse, and distribute surplus property under the Federal Property and Administrative Services Act of 1949, as amended, and any other federal law relating to the disposal of surplus federal property to the states and political subdivisions within the states. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies. The secretary of the Finance and Administration Cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to comply with the minimum standards established by federal laws and regulations governing disposal of surplus federal property and to implement subsection (3) of this section.

(2)[~~(3)~~] The secretary of the Finance and Administration Cabinet may establish, charge and collect from donees of federal surplus property a fair and reasonable fee or service charge to defray the cost of operating the surplus property disposal program. The fees shall be deposited in a trust and agency account in the State Treasury to the credit of the Division of Purchases.

Section 11. KRS 42.025 is amended to read as follows:

[~~(1)~~] The Division of Printing shall be responsible for the printing and duplicating needs of state agencies, as provided by KRS Chapters 45A and 57. The division shall include printing consultants to advise and assist state agencies in advance planning on an annual basis of their printing needs and a forms control unit to review the requirements of state agencies for various kinds of forms and to advise and assist state agencies in forms control, development and revisions.

[~~(2) The Division of County and Municipal Accounting shall be responsible for assisting both county and municipal governments in their financial administration and for providing state revenue sharing funds to these local governments. The division's responsibilities shall include but not be limited to the state local finance office (KRS 42.170), county fee systems, municipal technical assistance (KRS 91A.050), the local government economic assistance fund (KRS 42.450) and the county and municipal road aid fund (KRS 177.369 and 179.410).~~]

Section 12. KRS 42.170 is amended to read as follows:

All of the functions of the state local ***debt*** [~~finance~~] officer provided in KRS Chapters 66 ***and***[~~, 68,~~] 103 [~~and 131~~] relating to the issuance of ***debt obligations*** [~~bonds and control of funds~~] of counties, cities, and other local units [~~and county financial administration~~] shall be exercised by the ***Office of the Controller,*** Finance and Administration Cabinet.

Section 13. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management and Economic Analysis established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.390 and 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The evaluation of revenue projections relative to proposed revenue bond issues;

(f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;

(g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

(h) ***The tax administrative function of utilizing tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information that will assist the Revenue Cabinet in performing its tax administrative functions.***

(i) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management and Economic Analysis shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management and Economic Analysis shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management and Economic Analysis shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission

by KRS 42.500 and 42.525.

Section 14. KRS 45.031 is amended to read as follows:

(1) Any department, board, commission, agency, advisory council, interstate compact, corporate body, or instrumentality of the Commonwealth of Kentucky applying for federal funds, aids, loans, or grants shall file a summary notification of the intended application with the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] in accordance with the existing A-95 procedures.

(2) When as a condition to receiving [~~such~~] federal funds, the Commonwealth of Kentucky is required to match the federal funds, a statement shall be filed with the notice of intent or summary of the application stating:

- (a) The amount and source of state funds needed for matching purposes;
- (b) The length of time ***the*** [~~such~~] matching funds shall be required;
- (c) The growth of the program;
- (d) How the program will be evaluated;
- (e) What action will be necessary should the federal funds be canceled, curtailed, or restricted; and
- (f) ***Any*** [~~Such~~] other financial and program management data [~~as~~] required by the Finance and Administration Cabinet or by law.

(3) Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the secretary of the Finance and Administration Cabinet, the Legislative Research Commission and the Chief Justice for their respective branches of government or their designated agents prior to its filing with the appropriate federal agency. Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, when [~~such~~] funds have not been appropriated for that express purpose, must be approved by the General Assembly, if in session. When the General Assembly is not in session, ***the*** [~~such~~] application shall be reported to and reviewed by the Interim Joint Committee on Appropriations and Revenue, as provided by subsection (4) of KRS 48.500.

(4) When any federal funds, aids, loans, or grants are received by any department, board, commission or agency of the Commonwealth of Kentucky, a report of the amount of funds received shall be filed with the Finance and Administration Cabinet; and this report shall specify the amount of funds which would reimburse an agency for indirect costs as provided for under OMB Circular A-87.

(5) The secretary of the Finance and Administration Cabinet may refuse to issue his warrant for the disbursement of any state or federal funds from the State Treasury as the result of any application which is not approved pursuant to this section, or in regard to which the statement or reports required by this section were not filed.

(6) The secretary of the Finance and Administration Cabinet shall be responsible for the orderly administration of this section and for issuing the appropriate guidelines and regulations from each source of fund used.

Section 15. KRS 61.420 is amended to read as follows:

For the purpose of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of ***the*** [~~such~~] remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for ***those*** [~~such~~] employers, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and the secretary entered into under KRS 61.410 to 61.500; provided, however, that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions, the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employee" means any person in the service of the Commonwealth, a political subdivision or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed;

(4) "State agency" means the ***Division of*** [~~State Office for~~] Social Security, ***Office of the Controller,*** which agency shall be subject to the authority of the secretary of finance and administration;

(5) "Political subdivision," in addition to counties, municipal corporations and school districts, includes instrumentalities of the Commonwealth, of one (1) or more of its political subdivisions or of the Commonwealth and one (1) or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as

the "Social Security Act," including regulations and requirements issued pursuant thereto, as ***that*** [~~such~~] act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means subchapter A of Chapter 9 of the Federal Internal Revenue Code and all amendments thereto;

(8) "Secretary" means the Secretary of Health, Education and Welfare and includes any individual to whom the secretary may delegate any of his functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the federal security administrator and any individual to whom he may have delegated any of his functions under the Social Security Act;

(9) "Insurance coverage" means coverage by the old-age, survivors and disability insurance provisions of the Social Security Act;

(10) "Sick leave with pay" means any payment made in lieu of salary on account of sickness or accident disability.

Section 16. KRS 64.070 is amended to read as follows:

(1) (a) Except as provided in KRS 441.540, an officer conveying a prisoner to the penitentiary shall be paid out of the State Treasury the rate per mile paid state employees for official travel in privately-owned vehicles, as established by ***administrative*** regulation of the Finance and Administration Cabinet***, pursuant to KRS Chapter 13A***, to be calculated by the nearest traveled route, and shall be paid all actual necessary expenses for feeding, lodging and transporting the prisoner;

(b) Upon the production of the receipt of the warden of the penitentiary for the delivery of a prisoner, and a complete verified account of all expenses incurred, giving the names of the guards employed and distance traveled, the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] shall audit the account of the officer for conveying the prisoner and, if found correct, draw a warrant for its payment.

(2) (a) For conveying a prisoner charged with a felony from one (1) county to another, an officer shall receive the same mileage and expenses allowed for conveying a prisoner to the penitentiary, to be paid out of the State Treasury except as provided in KRS 441.530;

(b) Upon the production of the receipt of the jailer of the county to which the prisoner is transferred, and a complete verified account of all expenses incurred, giving the names of the guards employed and the distance traveled, the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] shall audit the account of the officer for conveying the prisoner and if found correct shall draw a warrant for its payment.

(3) (a) For arresting a person charged with a misdemeanor upon a warrant issued from another county, and conveying the person to the county jail of the county from which the warrant issued, an officer shall be paid out of the county treasury of ***the*** [~~such~~] county ***from which the warrant was issued*** the same mileage and expenses allowed for conveying a prisoner to the penitentiary;

(b) The officer shall present to the county judge/executive of the county from which the warrant issued a verified and itemized statement of his mileage and expenses and the county judge/executive shall direct the county treasurer to pay the same out of the county treasury.

(4) For conveying a prisoner charged with a felony to the jail of the county in which he was arrested, an officer shall be paid out of the State Treasury the rate per mile paid state employees for official travel in privately-owned vehicles, as established by ***administrative*** regulation of the Finance and Administration Cabinet***, adopted pursuant to KRS Chapter 13A,*** for each mile traveled in going and returning.

(5) The number of guards employed in conveying prisoners to the penitentiary or from one (1) county to another shall not exceed one (1) for every two (2) prisoners. Where only one (1) prisoner is conveyed no guard shall be employed, except that the Circuit Judge may appoint one (1) guard for each prisoner to the nearest railroad station.

Section 17. KRS 64.140 is amended to read as follows:

(1) Any sheriff may be entitled to receive an advancement to defray necessary official expenses and to apply to the payment of the salaries of himself and his deputies and assistants. The ***secretary*** [~~commissioner~~] of the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] shall, on the first day of each calendar month, determine the necessary amount that may be advanced to the sheriff, which amount shall not exceed one-twelfth (1/12) of the total fees collected by the sheriff for the preceding year and may be for a less amount, and in no event shall it exceed thirty thousand dollars ($30,000) per month. When approved by the ***secretary*** [~~commissioner~~] of the ***Finance and Administration Cabinet*** [~~Department of Local Government~~], a warrant shall be drawn on the State Treasury in favor of the sheriff for such advancement. At the end of each calendar year the sum of such advancements shall be deducted from the part of the total of fees and commissions paid into the State Treasury by the sheriff, pursuant to Section 106 of the Constitution of Kentucky, that is available for use for the payment of the salaries of the sheriff, his deputies and assistants, and his necessary office expenses.

(2) If the office of sheriff becomes vacant, the sums advanced under this section shall be charged against that part of the fees and the commissions of the office of the sheriff that have been, or shall be, paid into the State Treasury during the calendar year in which the advancements were made, and that is available for payment of the salaries of the sheriff, his

deputies and assistants, and necessary expenses of his office.

(3) If the total of fees and commissions paid into the State Treasury by the sheriff for any calendar year is insufficient to match the amount of advancements made to him, he and his sureties shall be liable to the state for any excess of advancements over the total of fees and commissions paid into the State Treasury.

Section 18. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the Circuit Court, and signed by the chief judge thereof. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the ***Finance and Administration Cabinet*** [~~Department of Local Government~~].

(3) Each officer shall, on the first day of each month, send to the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with ***these*** [~~such~~] statements, send to the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] the amount so collected or received. The ***Finance and Administration Cabinet*** [~~Department of Local Government~~] may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the ***Finance and Administration Cabinet*** [~~Department of Local Government~~] by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the Circuit Court and signed by the chief judge thereof. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the ***Finance and Administration Cabinet*** [~~Department of Local Government~~].

Section 19. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy thousand (70,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining, and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury, and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the State Treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county governments of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~]. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15, and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~]. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the State Treasurer to the fiscal courts or urban-county government of the

respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, all sums received into the State Treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) of this section from any county in which a metropolitan correctional services department has been established shall be expended from the State Treasury for the payment of the salaries and costs specified in subsection (1) of this section, and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the State Treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the ***Finance and Administration Cabinet*** [~~Department of Local Government~~].

Section 20. KRS 65.005 is amended to read as follows:

(1) (a) "Special district" means any agency, authority, or political subdivision of the state which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the state except a city, a county, or a school district.

(b) "Governing body" means the body possessing legislative authority in a city, county, or special district.

(2) No special district shall be legally created without ***sending notification*** [~~notifying~~] of its existence in writing ***to*** [~~in duplicate~~] the clerk of the county within the jurisdiction of which its principal office shall be located. This requirement for notification is in addition to all other provisions of existing law providing for the creation of special districts. ***The*** [~~Such~~] notification shall contain the names and addresses of the members of the governing body of ***the*** [~~any such~~] district, the name and address of its chief executive officer, a specific reference to the statute or statutes pursuant to which it was created, and a brief description of its service area and activities. The clerk shall record the original and forward ***a*** [~~the duplicate~~] copy of the notification to the state local finance officer, ***Department of Local Government, and the state local debt officer, Office of the Controller,*** Finance and Administration Cabinet. The clerk shall be paid a fee of two dollars ($2) by the district for recording and mailing the notification.

(3) The governing body of any existing special district shall submit notification as required in subsection (2) of this section within thirty (30) days after June 16, 1966, and the governing body of a newly created special district shall submit the required notification at or before its first meeting.

Section 21. KRS 65.070 is amended to read as follows:

(1) By the first day of July of each year, a district shall:

(a) File with the county clerk of each county with territory in the district a certification showing ***any*** [~~such~~] of the following information that has changed since the last filing by the district:

1. The name of the district,
2. A map or general description of its service area,
3. The statutory authority under which it was created, and
4. The names, addresses and the date of expiration of the terms of office of the members of its governing body and chief executive officer;

(b) File a copy of the district budget, financial statement if prepared, and audit when performed, with the county judge/executive of each county with territory in the district;

(c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement which includes the location of supporting documents, or the location of district financial records which may be examined by the public.

(2) The ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.

(3) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with ***its*** [~~such~~] provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 22. KRS 65.7701 is amended to read as follows:

As used in KRS 65.7703 to 65.7721 unless the context otherwise requires:

(1) "Governmental agency" means any county, urban-county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(2) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to act on behalf of a governmental agency.

(3) "Legislation" means an order, resolution, or ordinance of the governing body.

(4) "Notes" means notes authorized by KRS 65.7703 to 65.7721 which may be secured by taxes or revenue or taxes and revenue.

(5) "Revenue" means all funds received by a governmental agency which are not taxes, including, but not limited to, excises, transfers, service fees, assessments, and occupational license fees.

(6) "State local ***debt*** [~~finance~~] officer" means the officer ***so*** designated in KRS 66.045.

(7) "Taxes" means taxes properly levied upon real or personal property.

Section 23. KRS 65.7719 is amended to read as follows:

Without first notifying the state local ***debt*** [~~finance~~] officer in writing, no note shall be valid or obligatory. Notification shall contain the terms of the notes, including the interest rates or method of determining rates, the approximate date of issue, the maturity dates, the trustee or paying agent, if any, and shall include a copy of the certificate of the governmental agency as to taxes or revenues to be collected during the term of the notes. No approval of the state local ***debt*** [~~finance~~] officer shall be required.

Section 24. KRS 65.940 is amended to read as follows:

As used in KRS 65.942 to 65.956, unless the context otherwise requires:

(1) "Acquire" means to purchase, install, equip, or improve personal property or real property pursuant to KRS 65.942 to 65.956.

(2) "City" means any municipal corporation of any class incorporated in the Commonwealth.

(3) "Construct" means building reconstruction, replacement, extension, repairing, betterment, development, equipment, embellishment, or improvement.

(4) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.

(5) "Governmental agency" means any county, urban-county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(6) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to acquire property for each respective governmental agency.

(7) "Lease" means a lease, lease purchase, lease with option to purchase, installment sale agreement, or other similar agreement entered into pursuant to KRS 65.942 to 65.956.

(8) "Lease price" means the total of amounts designated as payments of principal under a lease.

(9) "Net interest cost" means the total of all interest to accrue and fall due through the last payment due date on a lease, plus any discount or minus any premium included in the lease price.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision, or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Personal property" means personal property, appliances, equipment or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of a governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency, but shall not include real property.

(12) "Real property" means land, buildings, fixtures, and interests in real property, deemed by the governing body of the governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency.

(13) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees, assessments, and occupational license fees.

(14) "School district" means any county school district or independent school district organized and existing pursuant to the laws of the Commonwealth.

(15) "Special district" means any agency, authority, or political subdivision of the Commonwealth which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the Commonwealth except a city, county, or school district.

(16) "State local ***debt*** [~~finance~~] officer" means the officer ***so*** designated in KRS 66.045.

(17) "Taxes" means taxes properly levied upon real or personal property.

(18) "Taxing district" means any taxing district created under KRS 65.180 to 65.190.

Section 25. KRS 65.944 is amended to read as follows:

(1) (a) Without first notifying the state local ***debt*** [~~finance~~] officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and ***any*** [~~such~~] other information the state local ***debt*** [~~finance~~] officer may require. The state

local ***debt*** [~~finance~~] officer may prescribe a form for providing the information required by this paragraph.

(b) In addition to the notification required by this subsection, no county, except an urban-county, shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local ***debt*** [~~finance~~] officer. The state local ***debt*** [~~finance~~] officer may prescribe procedures and adopt regulations for granting approval of the leases.

(c) In addition to the notification required by this subsection, no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the chief state school officer. The chief state school officer shall recommend administrative regulations to the State Board of Education for implementation of KRS 65.940 to 65.956.

(2) The state local ***debt*** [~~finance~~] officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

Section 26. KRS 66.045 is amended to read as follows:

(1) It is the intent of this section to facilitate, through state technical and advisory assistance, the marketing of local government bonds and other long-term obligations at the lowest possible net interest costs.

(2) (a) "Local government" means a county, city, and other special-purpose district, authority, or public corporation, except a school district, within the state, but which exercises less than statewide jurisdiction;

(b) "Governing body" means the board, commission, or other [~~such~~] body charged with exercising the legislative authority of a local government;

(c) "State local ***debt*** [~~finance~~] officer," as used in this chapter and other provisions of law, means the ***state controller, Finance and Administration Cabinet,*** [~~commissioner of the Department of Local Government~~] or his agent designated in writing with the approval of the ***secretary of the Finance and Administration Cabinet*** [~~governor~~];

(d) "Chief financial officer" means the comptroller, treasurer, director of finance or other local government official charged with managing the fiscal affairs of a local government; and

(e) "Bonds," as used anywhere in this chapter, means debt payable more than one (1) year after date of issue or incurrence, issued pursuant to the laws authorizing local government borrowing.

(3) Without first notifying the state local ***debt*** [~~finance~~] officer in writing, no bonds may be issued by or on behalf of any local government. The notification shall contain the maturity schedule, interest rate, date of issue, purpose, paying agent, and ***any*** [~~such~~] other information [~~as~~] the state local ***debt*** [~~finance~~] officer may require to provide a complete file on local government debt.

(4) The state local ***debt*** [~~finance~~] officer may provide technical and advisory assistance regarding the issuance of long-term debt to those local governments whose governing bodies request ***that*** [~~such~~] assistance. ***The*** [~~Such~~] assistance shall include, but need not be limited to:

(a) Advice on the marketing of bonds by local governments;

(b) Conduct of training courses in debt management for local financial officers; and

(c) Promotion of the use by local governments of such tools for sound financial management as adequate systems of budgeting, accounting, auditing, and reporting.

Section 27. KRS 66.280 is amended to read as follows:

(1) Whenever used in KRS 66.300 to 66.390, unless the context requires otherwise:

(a) "Commission" means the County Debt Commission as hereinafter established;

(b) "State local ***debt*** [~~finance~~] officer" means the ***state controller, Finance and Administration Cabinet,*** [~~commissioner of the Department of Local Government~~] or his agent designated in writing with the approval of the ***secretary of the Finance and Administration Cabinet*** [~~governor~~];

(c) "Fiscal court" means the county judge/executive and the justices of the peace or the county judge/executive and the commissioners of the county;

(d) "Funding bonds" or "funded indebtedness" means bonds issued to fund floating indebtedness, or reissues thereof;

(e) "Road and bridge bonds" means county road and bridge bonds issued under the authorization of Section 157a of the Constitution of Kentucky, or reissues thereof; and

(f) "Refunding bonds" means bonds issued for the purpose of reissuing or renewing outstanding bonds.

(2) KRS 66.280 to 66.390 may be cited as the "County Debt Act."

Section 28. KRS 66.300 is amended to read as follows:

(1) There shall be a County Debt Commission, consisting of the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Secretary of State, the Attorney General, the commissioner of the Department of Highways, the secretary of the Finance and Administration Cabinet, and the secretary of the Revenue Cabinet. The Governor shall be chairman and the Lieutenant Governor shall be vice chairman. When the Governor is absent from

Frankfort, the Lieutenant Governor shall be chairman, and when both the Governor and the Lieutenant Governor are absent from Frankfort, the secretary of the Finance and Administration Cabinet shall be chairman. The state local ***debt*** [~~finance~~] officer shall serve as secretary of the commission. Each member shall serve without additional compensation, and each member except the Governor and Lieutenant Governor may, by advising the Governor in writing, authorize an executive officer of the department of which he is head to act for him as a member of the commission.

(2) The chairman may, at his discretion, call meetings of the commission and designate the time and place of the meeting. The chairman and four (4) other members of the commission shall constitute a quorum. The commission, by a majority vote of the quorum present, may adopt appropriate [~~rules and~~] regulations for the enforcement of KRS 66.280 to 66.390, hear and dispose of appeals from rulings of the state local ***debt*** [~~finance~~] officer, and perform the other duties imposed upon it.

(3) The commission may hold public hearings on any question before it, or the chairman may appoint a committee of the commission or a referee to hold the hearing with instructions to report any findings or recommendations to the commission. The officials or taxpayers of a county or the creditors thereof having a material interest in any hearing before the commission shall, upon their demand, be heard.

(4) The commission shall study the problems of county finance in Kentucky and other states for the purpose of making recommendations to the Legislative Research Commission and the General Assembly. The commission may require the state local ***debt*** [~~finance~~] officer to prepare studies on designated subjects, and to publish ***the*** [~~such~~] studies [~~as~~] it directs ***to be published***, and to supply any available information and make ***any*** [~~such~~] special inquiries or investigations [~~as~~] it deems necessary.

(5) Any county aggrieved by a ruling of the state local ***debt*** [~~finance~~] officer may within fifteen (15) days thereafter appeal to the commission. The decision of the commission shall be final except as otherwise provided in KRS 66.280 to 66.390.

Section 29. KRS 66.310 is amended to read as follows:

(1) No county may contract an indebtedness which, together with all other indebtedness of the county, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding complete assessment, and issue valid bonds therefor, without having first secured the written approval of the state local ***debt*** [~~finance~~] officer. Any other bonds to be issued or reissued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local ***debt*** [~~finance~~] officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue or reissue of county bonds voluntarily as provided in this section, all bonds thereafter issued or reissued by the county must be approved as provided in this section.

(2) Without the approval of the state local ***debt*** [~~finance~~] officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless ***the*** [~~such~~] bonds***,*** if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If ***his*** [~~such~~] approval is required, the state local ***debt*** [~~finance~~] officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under subsection (3), and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if ***those bonds*** [~~the same shall~~] have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.

(3) The state local ***debt*** [~~finance~~] officer shall hold a hearing for the purpose of determining whether any issue or reissue of bonds submitted to him for approval should be approved or disapproved. The state local ***debt*** [~~finance~~] officer shall withhold his approval if he believes the financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county; if, in his discretion, the issue or reissue of bonds will not serve the best interests of both the county issuing ***the bonds*** [~~same~~] and a majority of its creditors; or if it appears that the bonds or the issuance thereof will be invalid. If the state local ***debt*** [~~finance~~] officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local ***debt*** [~~finance~~] officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be ***sufficient*** [~~such as~~] to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.

(4) The state local ***debt*** [~~finance~~] officer shall give at least two (2) weeks' notice of the hearing [~~herein above~~] required ***by subsection (2) or (3) of this section*** to the county judge/executive of the county proposing to issue [~~such~~] bonds, and the county judge/executive shall cause a copy of ***that*** [~~said~~] notice to be published pursuant to KRS Chapter 424. In the case of bonds ***having a principal amount in excess of ten million dollars ($10,000,000),*** proposed to be issued for the purpose of refunding currently outstanding bonds, the state local ***debt*** [~~finance~~] officer shall***,*** in addition***,*** cause a notice of

the hearing to be published pursuant to KRS Chapter 424***,*** and at least ten (10) days, exclusive of Sundays and holidays, prior to the date set for the hearing***,*** in a financial newspaper or periodical having general circulation among bondholders and bond dealers***,*** and ***the*** [~~said~~] notice shall be paid for by the Finance and Administration Cabinet out of its appropriation. Any party having a material interest shall have an opportunity to be heard and to present evidence. The state local ***debt*** [~~finance~~] officer shall make a record of the proceedings of ***the*** [~~such~~] hearing and shall prepare a written decision approving or disapproving the issuance of the proposed bonds. Any interested party or taxpayer may within fifteen (15) days, exclusive of Sundays and holidays, appeal to the commission from the decision of the state local ***debt*** [~~finance~~] officer. The commission, upon the basis of the record prepared by the state local ***debt*** [~~finance~~] officer, and of any additional evidence which may be introduced, shall pass upon the decision of the state local ***debt*** [~~finance~~] officer.

(5) Within thirty (30) days, exclusive of Sundays and holidays, after a decision by the commission***,*** any interested party or taxpayer of the county, upon filing bond for costs, may appeal to the Franklin Circuit Court or, in the case only of bonds proposed to be issued for the purpose of funding floating indebtedness, to either the Franklin Circuit Court or to the Circuit Court of the county proposing to issue ***those*** [~~said~~] bonds. Appeal shall be taken by filing with the clerk of the court a copy of the record of the proceedings and decision of the state local ***debt*** [~~finance~~] officer and the decision of the commission. The commission, the fiscal court, the taxpayers of the county, and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. To facilitate adjudication***,*** the state local ***debt*** [~~finance~~] officer ***shall*** [~~is hereby required~~], on payment of a reasonable fee therefor to be fixed by the state local ***debt*** [~~finance~~] officer, [~~to~~] supply a certified copy of ***the*** [~~such~~] records to any party. The case shall be advanced on the docket of the Circuit Court and shall be heard and decided as in the case of a declaratory judgment, except that all findings of fact of the state local ***debt*** [~~finance~~] officer and of the commission shall be final if supported by any substantial evidence***;***[~~, provided,~~] however, ***if only*** [~~that in the case only where~~] the question of the validity of the indebtedness proposed to be funded or refunded is in issue, additional evidence relating to the validity of ***the*** [~~such~~] indebtedness may be presented.

(6) An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

(7) ***If*** [~~In case~~] no appeal is taken from the approval of a bond issue by the state local ***debt*** [~~finance~~] officer or the commission as provided in this section, ***the*** [~~said~~] decision as to the legality of ***the*** [~~such~~] bonds shall be res adjudicata in any subsequent case or cases raising ***the*** [~~such~~] question of ***their*** legality. When bonds are approved as provided in this section, they shall not be required to be approved as provided in KRS 66.210 and 66.220.

(8) Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local ***debt*** [~~finance~~] officer and of the commission shall be filed with the Secretary of State.

Section 30. KRS 66.320 is amended to read as follows:

Any county, upon petition of its fiscal court, is entitled as a matter of right to the assistance of the state local ***debt*** [~~finance~~] officer in formulating a plan for reorganizing its debt structure. When any county is in default on the principal or interest of any indebtedness, or gives evidence of becoming unable to meet principal or interest maturities on any funded indebtedness within a reasonable time, or has an indebtedness which might, with advantage to the county, be funded or refunded, the state local ***debt*** [~~finance~~] officer may investigate the debt situation and credit standing of the county and negotiate with officials and creditors of the county for the purpose of formulating a plan for issuing or reissuing bonds.

Section 31. KRS 66.330 is amended to read as follows:

(1) The order of the fiscal court of any county providing for the issue or reissue and sale of any bonds shall specify: (a) the maximum amount to be issued, (b) the denominations in which the bonds shall be issued, (c) the maximum interest rate to be paid on the bonds, (d) the term of the bonds (if serial, a fully detailed principal maturity schedule shall be shown), and ***any*** [~~such~~] other information [~~as~~] the commission may***,*** by regulation***,*** require. A certified copy of ***the*** [~~such~~] order shall be submitted to the state local ***debt*** [~~finance~~] officer, who shall expedite approval or disapproval if requested or if required by KRS 66.310.

(2) All county bonds offered for sale shall be advertised for sealed competitive bids by publication pursuant to KRS Chapter 424, and shall be sold by the fiscal court to the bidder at ***the*** [~~such~~] sale offering the price and interest rate most advantageous to the county. Nothing herein shall prohibit a county from exchanging reissues of bonds by private arrangements with the bondholders, subject to the approval of the state local ***debt*** [~~finance~~] officer, but ***any*** [~~such~~] bonds received at exchange ***shall*** [~~must~~] be taken in at par value or less.

(3) The costs of advertising, printing, and any other necessary expenses incident to the issue and sale of county bonds, excepting and excluding those incurred by the state local ***debt*** [~~finance~~] officer or any member of his staff and the commission, shall be borne by the county issuing the bonds, and may be deducted from any premium received on the sale of the bonds.

Section 32. KRS 66.340 is amended to read as follows:

The state local ***debt*** [~~finance~~] officer shall specify the place or places of payment of all principal and interest of county bonds approved as provided in KRS 66.310.

Section 33. KRS 66.350 is amended to read as follows:

The state local ***debt*** [~~finance~~] officer may require the registration with him of any bonds approved as provided in KRS 66.310. The commission may prescribe appropriate [~~rules and~~] regulations governing the registration of bonds.

Section 34. KRS 66.360 is amended to read as follows:

(1) There shall be a county road and bridge revolving fund, to which there shall be made available, at the request of the commission and subject to the approval of the [~~director of the budget of the~~] Finance and Administration Cabinet as to the availability of funds, ***the*** [~~such~~] amounts from the bank cash balance in the general expenditure fund as will not cause the revolving fund to exceed the gross amount of five hundred thousand dollars ($500,000) at any one (1) time, including sums owing to the revolving fund and not repaid. The state local ***debt*** [~~finance~~] officer, subject to the approval of the commission, may use as much of the revolving fund as is needed for the purchase of approved county road and bridge bonds, or for loans to counties for the redemption of matured road and bridge bonds if the county has ordered the issuance of refunding bonds approved by the state local ***debt*** [~~finance~~] officer. The commission shall disapprove the loan or purchase if, in its opinion, the method by which the revolving fund is to be reimbursed does not protect the fund from all losses, or if funds are not available for the loan or purchase, or if, in its opinion, the purchase or loan is for any other reason not for the best interest of the state and of the county issuing the bonds.

(2) Receipts from bonds sold by the fiscal court for the purpose of reimbursing the revolving fund for money borrowed from it to redeem matured bonds, and receipts from bonds sold by the state local ***debt*** [~~finance~~] officer, shall be paid to the state local ***debt*** [~~finance~~] officer for deposit with the state treasurer in the revolving fund. An amount equal to the amount paid by the state local ***debt*** [~~finance~~] officer for the bonds or lent to the county shall be credited to the revolving fund; the remainder, if any, shall, when authorized by the state local ***debt*** [~~finance~~] officer, be credited to the account of that county in the county sinking fund provided for in KRS 66.370.

Section 35. KRS 66.370 is amended to read as follows:

(1) On or before the fifteenth day of July of each year, the county judge/executive of each county in this Commonwealth shall, for the fiscal year immediately preceding, deliver to the state local ***debt*** [~~finance~~] officer a report showing for the county the total amounts of each and every issue of outstanding bonds and the amount of unfunded debt, if any, together with the interest rate or rates of all indebtedness, sinking fund balances, sinking fund investments or deposits and earnings, payments of debt principal and interest, and ***any*** [~~such~~] other information respecting indebtedness, whether or not herein enumerated, as the commission may***,*** by regulation***,*** require.

(2) A county may, by order of its fiscal court, surrender to the state local ***debt*** [~~finance~~] officer all money in hand, notes, bonds, accounts or other credits representing assets available, and ***any*** [~~such~~] other sums which may hereafter become available from any and all sources, for paying the principal and interest of any bonded debt of the county; [~~Provided,~~] however, [~~that~~] if a county surrenders the sinking fund for any bond issue payable either from the tax levy authorized by Section 157 or by Section 157a of the Constitution of Kentucky or from any special tax levy authorized by law, it ***shall also*** [~~must~~] surrender [~~also~~] the sinking funds for all other bonds payable from the same tax levy as herein defined. ***The*** [~~Such~~] surrender shall be irrevocable on the part of the county. [~~Provided further, that~~] Any county which has a bond issue approved under [~~the provisions of~~] KRS 66.310 ***shall*** [~~is required to~~] comply with the provisions of this subsection with respect to the sinking funds for the bonds thus approved and for any other bonds payable from the same tax levy as herein defined. The county judge/executive of any county complying with the provisions of this subsection ***shall be*** [~~is hereby~~] relieved of the requirement to submit the annual reports [~~hereinabove~~] specified in ***subsection (1) of*** this section insofar as these apply to bonded debts, the sinking funds for which have been surrendered to the state local ***debt*** [~~finance~~] officer.

(3) All cash [~~so~~] received ***under this section*** by the state local ***debt*** [~~finance~~] officer shall be deposited with the State Treasurer to the credit of a fund designated the "county sinking fund." All assets other than cash shall be deposited with the State Treasurer and shall be liquidated, upon authorization of the commission, within a reasonable time.

(4) The county treasurer of any county complying with the provisions of this section shall remit monthly to the state local ***debt*** [~~finance~~] officer all moneys received from any tax levy made for the exclusive purpose of paying principal and interest on any bonds. Any moneys appropriated in the county budget from any other source or any moneys required by law to be used for the same purpose shall be remitted as required for paying any principal ***or*** [~~and/or~~] interest maturities***, or both,*** or meeting sinking fund requirements. The state local ***debt*** [~~finance~~] officer ***may*** [~~is authorized to~~] institute actions in the Franklin Circuit Court to enforce the provisions of this subsection or to recover any [~~such~~] funds ***that*** [~~as~~] may have been misapplied.

(5) Accounts showing the county sinking fund receipts and disbursements shall be kept by the state local ***debt*** [~~finance~~] officer for each bond issue of each county for which deposits are made in ***the*** [~~said~~] fund. As of the close of the county fiscal year the state local ***debt*** [~~finance~~] officer shall, within thirty (30) days thereafter, render to the county judge/executive of each county having deposits in ***the*** [~~said~~] fund a statement thereof for each bond issue of that county.

On or about the first day of May of each year, the state local ***debt*** ~~{finance}~~ officer shall deliver to the county judge/executive an estimate of the principal and interest requirements of outstanding bonds issued by ***that*** ~~{said}~~ county or of the proportionate annual amount which should be deposited in a sinking fund.

(6) Disbursements from the county sinking fund shall, when authorized by the state local ***debt*** ~~{finance}~~ officer, be made in the same manner as other claims on the Commonwealth are paid. Disbursements may be made only for***:***

(a) The payment of principal or interest, or both, of the bonds for which the deposit was made, and

(b) The investment of ***the*** ~~{such}~~ funds as ~~{is hereinafter}~~ authorized ***in KRS 66.380***.

(7) All coupons and bonds for the payment of which deposits are made in the county sinking fund shall be paid either directly by the state local ***debt*** ~~{finance}~~ officer or by the bank designated as paying agent. ***That*** ~~{Such}~~ bank may be paid a reasonable fee for ***its*** ~~{such}~~ services by the ***Finance and Administration Cabinet*** ~~{Department of Local Government}~~ out of its appropriation. All paid bonds and coupons shall be surrendered to the state local ***debt*** ~~{finance}~~ officer and canceled, and shall be delivered to the judge/executive of each county along with the annual statement provided for in this section.

Section 36. KRS 66.380 is amended to read as follows:

(1) The state local ***debt*** ~~{finance}~~ officer, with the approval of the commission, shall have authority to invest any funds accrued to the county sinking fund and the fiscal court shall have authority to invest any funds accrued to and maintained in a county sinking fund which are not needed to meet interest and principal maturities on county debts within the next succeeding twelve (12) months in obligations secured by the credit of the United States government, or in warrants of the Commonwealth of Kentucky, or in road and bridge bonds of any county of the Commonwealth which have been approved by the commission for such investment, provided that the securities thus purchased shall become payable before the money with which they were purchased shall be required for meeting obligations of the sinking fund. Nothing in this section shall prevent a county or the state local ***debt*** ~~{finance}~~ officer from purchasing any bonds, at a price which will result in a saving to the county, prior to their maturity date with sinking fund moneys created for their redemption; ***if the*** ~~{provided, that such}~~ moneys are not required for the redemption of bonds maturing prior to those purchased, and ***if*** ~~{provided further that}~~ bonds so purchased ***are*** ~~{shall be}~~ canceled and interest thereon ***ceases*** ~~{shall cease}~~.

(2) Any earnings or losses of the county sinking fund shall be charged or credited as of July 1 of each year among the counties maintaining deposits therein in the ratio which the largest amount in any sinking fund account continuously on deposit for a period of six (6) months during the twelve (12) months preceding allocation bears to the sum of ***these*** ~~{such}~~ amounts for all sinking fund accounts.

Section 37. KRS 66.390 is amended to read as follows:

Ownership of obligations of Kentucky counties shall disqualify the ***state controller, Finance and Administration Cabinet,*** ~~{commissioner of the Department of Local Government}~~ or any of his appointees from serving in any capacity incident to the administration of KRS 66.280 to 66.380, or KRS 68.220, 68.250, 68.270, 68.280, 68.310, or 68.320.

Section 38. KRS 66.400 is amended to read as follows:

Any taxing agency or instrumentality as defined in Chapter IX of the Federal Bankruptcy Act as amended by the Acts of Congress of August 16, 1937, Chapter 657, June 22, 1938, Chapter 575, March 4, 1940, Chapter 41, June 28, 1940, Chapter 438 and acts amendatory and supplementary thereto or acts extending the date of expiration thereof, as the same may be amended or extended from time to time, ***may*** ~~{is hereby authorized to}~~ file a petition for the composition of its debts and to do all things necessary to comply with the provisions of the Federal Bankruptcy Act***.*** ~~{: provided, however, that}~~ No county ***shall*** ~~{is authorized to}~~ file a petition as provided in the Federal Bankruptcy Act unless the proposed plan is first approved by the ***state local debt officer and the*** state local finance officer***, as defined in Section 2 of this Act.*** ~~{and provided further, that}~~ No changes or modifications shall be made in the plan of composition after the filing of the petition without the approval of the ***state local debt officer and the*** state local finance officer. The ***state local debt officer*** state local finance officer shall approve or disapprove the proposed plan of composition or any changes or modifications thereof under the same procedure and for the same reasons as bonds are approved or disapproved ***under*** ~~{by him as is provided in}~~ KRS 66.280 to 66.390.

Section 39. KRS 66.480 is amended to read as follows:

(1) The governing body of a municipality, county, school district (provided that its general procedure for action is approved by the State Board for Elementary and Secondary Education), or other local governmental unit or political subdivision, may invest and reinvest money subject to its control and jurisdiction in:

(a) Obligations of the United States and of its agencies and instrumentalities, including ~~{such}~~ obligations subject to repurchase agreements, ***if*** ~~{provided that}~~ delivery of these obligations subject to repurchase agreements is taken either directly or through an authorized custodian. ***These*** ~~{Such}~~ investments may be accomplished through repurchase agreements reached with sources including, but not limited to, national or state banks chartered in Kentucky;

(b) Bonds or certificates of indebtedness of this state and of its agencies and instrumentalities;

(c) Any savings and loan association insured by an agency of the government of the United States up to the amount so insured;

(d) Interest-bearing deposits in national or state banks chartered in Kentucky and insured by an agency of the government of the United States up to the amount so insured, and in larger amounts, ***if the*** [~~providing such~~] bank shall pledge as security, obligations as permitted by KRS 41.240(4), having a current quoted market value at least equal to any uninsured deposits. No municipality, county, school district, other unit of local government, political subdivision, or county official shall make any investment which would jeopardize the tax-exempt status of any outstanding obligation of ***that*** [~~such~~] unit of local government; and

(e) Shares of mutual funds, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under the Federal Investment Company Act of 1940, as amended;
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section.

(2) Sheriffs, county clerks, and jailers, who for the purposes of this section shall be known as county officials, may, and at the direction of the fiscal court shall, invest and reinvest money subject to their control and jurisdiction, including tax dollars subject to the provisions of KRS 134.300, 134.320, and 160.510, in the investment instruments permitted by subsection (1) of this section.

(3) The provisions of this section are not intended to impair the power of a county official, municipality, county, school district, or other local governmental unit or political subdivision to hold funds in deposit accounts with banking institutions as otherwise authorized by law.

(4) The governing body or county official may delegate the investment authority provided by subsection (1) of this section to the treasurer or other financial officer charged with custody of the funds of the local government, and ***that*** [~~such~~] officer shall thereafter assume full responsibility for all investment transactions until the delegation of authority terminates or is revoked.

(5) All county officials shall report the earnings of any investments at the time of their annual reports and settlements with the fiscal courts for excess income of their offices.

(6) The state local ***debt*** [~~finance~~] officer is authorized and directed to assist county officials and local governments (except school districts) in investing funds that are temporarily in excess of operating needs by:

(a) Explaining investment opportunities to [~~such~~] county officials and local governments through publication and other appropriate means; and

(b) Providing technical assistance in investment of idle funds to county officials and local governments that request ***that*** [~~such~~] assistance.

(7) (a) The state local ***debt*** [~~finance~~] officer may create an investment pool for local governments (except school districts) and county officials; and counties and county officials and cities may associate to create an investment pool. If counties and county officials and cities create a pool, each group may select a manager to administer their pool and invest the assets. Each county and each county official and each city may invest in a pool created pursuant to this subsection. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local government and county official shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local government or county official shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local government or county official participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the state local ***debt*** [~~finance~~] officer. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) If the state local ***debt*** [~~finance~~] officer creates an investment pool, he shall establish an account in the Treasury for the pool. He shall also establish a separate trust and agency account for the purpose of covering management costs, and he shall deposit management charges in this account. The state local ***debt*** [~~finance~~] officer may issue regulations, pursuant to KRS Chapter 13A, governing the operation of the investment pool, including but not limited to provisions on minimum allowable investments and investment periods, and method and timing of investments, withdrawals, payment of earnings and assignment of charges.

(c) Before investing in an investment pool created pursuant to this subsection, a local government or county official shall allow any savings and loan association or bank in the county, as described in subsection (1)(c) and (d) of this section, to bid for the deposits, but the local government or county official shall not be required to seek bids more often than once in each six (6) month period.

(8) (a) With the approval of the State Board for Elementary and Secondary Education, local boards of education, or ***any*** [~~such~~] of them ***that*** [~~as may~~] desire to do so, may associate to create an investment pool. Each local school board which associates itself with other local school boards for the purpose of creating the investment pool may invest its funds in the pool so created and so managed. Investments shall be limited to those investment instruments permitted by subsection (1) of this section. The funds of each local school board shall be properly accounted for, and earnings and charges shall be assigned to each participant in a uniform manner according to the amount invested. Charges to any local school board shall not exceed one percent (1%) annually on the principal amount invested, and charges on investments of less than a year's duration shall be prorated. Any investment pool created pursuant to this subsection shall be audited each year by an independent certified public accountant, or by the Auditor of Public Accounts. A copy of the audit report shall be provided to each local school board participating in the pool. In the case of an audit by an independent certified public accountant, a copy of the audit report shall be provided to the Auditor of Public Accounts, and to the State Board for Elementary and Secondary Education. The Auditor of Public Accounts may review the report of the independent certified public accountant. After preliminary review, should discrepancies be found, the Auditor of Public Accounts may make his own investigative report or audit to verify the findings of the independent certified public accountant's report.

(b) The State Board for Elementary and Secondary Education may issue administrative regulations governing the operation of the investment pool including, but not limited to, provisions on minimum allowable investments and investment periods, and methods and timing of investments, withdrawals, payment of earnings, and assignment of charges.

Section 40. KRS 83A.075 is amended to read as follows:

(1) In order to equate the compensation of mayors and members of city legislative bodies with the purchasing power of the dollar, the ***Department of Local Government*** [~~Finance and Administration Cabinet~~] shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the mayor in cities of the first class shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum and mayors in cities other than the first class and legislative body members shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum.

(2) The legislative body of the city shall set the compensation of the officer in accordance with KRS 83A.070 at a rate no greater than that stipulated by the ***Department of Local Government*** [~~Finance and Administration Cabinet~~].

Section 41. KRS 103.286 is amended to read as follows:

(1) The Kentucky Private Activity Bond Allocation Committee is established. The purpose of the committee shall be to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of private activity bonds, as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of the bonds imposed by the Tax Reform Act of 1986, 26 U.S.C. sec. 146. The committee shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of the Finance and Administration Cabinet, who shall be chairman of the committee; the secretary of the Cabinet for Economic Development; the state budget director; the ***state controller, Finance and Administration Cabinet; and the secretary of the Governor's Cabinet*** [~~executive director of the Office for Program Administration; and the commissioner of the Department of Local Government~~], or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of ***private activity*** [~~such~~] bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

(a) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the first seventy-five percent (75%) of the term shall be designated as a period in which the committee shall provide that no less than sixty percent (60%) of the private activity cap be reserved for local bond issuance authorities.

(b) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the last twenty-five percent (25%) of the term shall be designated by the committee as the period in which the remaining unallocated cap shall revert to a single pool to be allocated on a first-come, first-serve basis to state and local governments.

(3) The secretary of the Finance and Administration Cabinet shall promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of the bonds within the Commonwealth of Kentucky.

(4) No bonds governed by this section shall be issued that are not in compliance with the state ceiling, subsections (2)(a) and (b) of this section, or with the allocation, application, or review procedures established by the secretary of the Finance and Administration Cabinet.

Section 42. KRS 131.020 is amended to read as follows:

(1) The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the Secretary. The Office of the Secretary shall include such principal assistants and personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of his office;

(b) Department of Property Taxation. The Department of Property Taxation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuating the property of public service companies, and administering intangible taxes;

(c) Department of Tax Compliance. The Department of Tax Compliance shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, providing data services, conducting audits, providing liaison with federal and state agencies, rendering taxpayer assistance, collecting delinquent taxes, and providing word processing services;

(d) Department of Administrative Services. The Department of Administrative Services shall be headed by a commissioner. The functions and duties of the department shall include reviewing audits, conducting conferences, issuing final rulings, administering taxpayer protests, establishing Revenue Cabinet tax policies, representing the Revenue Cabinet in legal and administrative actions, providing management analysis, preparing publications, and providing personnel and fiscal services.

(2) The functions and duties of the Revenue Cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the Revenue Cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the Department of Tax Compliance and the Department of Administrative Services, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) The Revenue Cabinet shall be organized for administrative convenience into divisions in accordance with KRS Chapter 12.

(4) The Revenue Cabinet shall fully cooperate with and make ***tax*** information [~~on tax receipts~~] available to the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis as necessary for the office to perform ***the tax administration function established in KRS 42.410*** [~~its duties~~].

Section 43. KRS 131.030 is amended to read as follows:

(1) The Revenue Cabinet shall exercise all administrative functions of the state in relation to the state revenue and tax laws, ***except those administrative tax functions that are statutorily delegated to other governmental agencies or officers of other governmental agencies,*** the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the Revenue Cabinet may commit administration of certain taxes.

(2) The Revenue Cabinet shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The Revenue Cabinet shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The Revenue Cabinet is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

Section 44. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Revenue Cabinet.

(1) The cabinet shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and cabinet employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The cabinet shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the cabinet. Such statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the cabinet distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the cabinet. The taxpayer shall be informed of such right prior to conduct of any conference or hearing.

(4) The cabinet shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the cabinet. The cabinet may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of such cabinet recording or a transcript thereof as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the cabinet is due to the taxpayer's reasonable reliance on written advice from the cabinet, the taxpayer shall be relieved of any penalty or interest with respect thereto provided the taxpayer requested such advice in writing from the cabinet and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the cabinet did not subsequently rescind or modify the advice in writing and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the cabinet's earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the cabinet by the Auditor of Public Accounts relating to the cabinet's compliance with the provisions of KRS 131.041 to 131.081.

(8) The cabinet shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the cabinet of the amounts owed. The cabinet may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The cabinet shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the cabinet has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The cabinet shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Revenue Cabinet personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the cabinet thereof in writing and provides a copy of such extension at the time and in the manner which the cabinet may require.

(12) The cabinet shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the cabinet, provided the erroneous lien or levy was caused by cabinet error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the cabinet and provided information or documentation sufficient to establish his or her position. When the cabinet releases any such erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation thereof, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The cabinet shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by cabinet employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the cabinet. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any such proceeding brought by a taxpayer is ruled frivolous by the board, the cabinet shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any information or documents attached thereto. Except as provided by KRS 131.190, no information pertaining to such returns, reports, or the affairs of a person's business shall be divulged by the cabinet ***or the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis*** to any person.

Section 45. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employee of the Revenue Cabinet, ***or employee in the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis,*** member of a county board of assessment appeals, property valuation administrator or employee thereof, or any other person, shall divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in

prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet***, or any employee of the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis,*** from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws ***or in any action challenging state or federal tax laws***.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal arrangements whereby the cabinet shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet by any licensee under the gasoline excise tax law may be made public by the cabinet.

(4) Notwithstanding the above, information received from the Internal Revenue Service shall not be made available to any other agency ***or office within any agency*** of state government ***that does not perform a tax administrative function***, any county, any city, or any other state.

Section 46. KRS 147A.020 is amended to read as follows:

(1) The state local ***debt officer within the Office of the Controller, Finance and Administration Cabinet and the state local*** finance officer ***within the Department of Local Government*** shall exercise ***the following*** ~~[all]~~ administrative functions of the state***:***

(a) The state local debt officer shall exercise all administrative functions as provided in the county debt act, KRS 66.280 to 66.390, and administrative functions relating to local government bonds as provided in KRS 66.045; and

(b) The state local finance officer shall exercise all administrative functions regarding county and local government budgets, as provided in KRS 68.210 to 68.360.

(2) The state local debt officer shall have the following powers and duties:

(a) To require reports from local governments to enable him to adequately provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which the state local debt officer shall keep open for public inspection at the Office of the Controller;

(b) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids;

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government, to enable the state local debt officer to carry out his duties under this section; and

(d) To compile and publish annually a report which shall include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.

(3) The state local finance officer shall have the following powers and duties:

(a) To coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, general revenue sharing for local government;

(b) To provide technical assistance and information to units of local government on matters including, but not limited to, fiscal management, purchases, and contracts; and

(c) To conduct training programs to instruct county and other local officials respecting their duties and responsibilities in the collection, expenditure, and management of public moneys subject to their control and jurisdiction ~~[as provided in the county debt act, KRS 66.280 to 66.390; as regards county and local government budgets as provided in KRS 68.210 to 68.360; and as to local government bonds as provided in KRS 66.045.~~

~~(2) The state local finance officer, except as provided in KRS 147A.025(1), shall have the following powers and duties:~~

~~(a) To require such reports from local governments as will enable him adequately to provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which shall be kept open for public inspection at the state local finance offices.~~

~~(b) To conduct training programs to instruct county and local government officials respecting their duties and responsibilities in the collection, expenditure and management of public moneys subject to their control and jurisdiction.~~

~~(c) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids.~~

~~(d) To request such assistance and information, which shall be provided by all departments, divisions, boards,~~

~~bureaus, commissions, and other agencies of state government to enable the state local finance officer to carry out his duties under this section.~~

~~(e) To compile and publish annually a report which shall include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.~~

~~(3) The state local finance officer shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to general revenue sharing for local government.~~

~~(4) The state local finance officer shall provide technical assistance and information to units of local government, including but not limited to:~~

~~(a) Fiscal management; and~~

~~(b) Purchases and contracts~~].

Section 47. KRS 147A.021 is amended to read as follows:

(1) The Department of Local Government shall have the following powers and duties:

(a) To require *any* [~~such~~] reports from local governments *that* [~~as~~] will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request [~~such~~] assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department of Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department of Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments; *and*

(m) The urban development office.

(4) The Department of Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

Section 48. The General Assembly confirms Executive Order 93-1142, issued November 23, 1993, to the extent that it is not otherwise confirmed by this Act.

The Committee Amendment No. 1 to the Committee Substitute to **SB 277** is as follows:

On page 63, between lines 25 and 26, by inserting the following:

"Section 48. KRS 36.355 is amended to read as follows:

(1) There shall be established and maintained in the Commonwealth of Kentucky state veterans' nursing homes to provide ***long-term***[~~domiciliary or nursing home~~] care to veterans who are residents of Kentucky.

(2) The Kentucky state veterans' nursing homes shall be ***attached to the Finance and Administration Cabinet***[~~under the administrative authority and control of the Department of Military Affairs~~]. The ***Finance and Administration Cabinet***[~~Department of Military Affairs~~] may promulgate ***any***[~~such~~] administrative regulations [~~as are~~]necessary to operate the homes in compliance with applicable state and federal statutes and regulations.

(3) The ***Finance and Administration Cabinet may***[~~Department of Military Affairs is authorized to~~] seek federal and private funding for the construction or renovation, and operation of Kentucky state veterans' nursing homes.

Section 49. KRS 36.360 is amended to read as follows:

For the purpose of financing the costs of the construction or renovation of Kentucky state veterans' nursing homes and all proper costs necessary or incidental thereto, the ***Finance and Administration Cabinet***[~~Department of Military Affairs~~] is hereby authorized to apply to the State Property and Buildings Commission for the issuance of revenue bonds and to enter into ***any***[~~such~~] leases or other financing agreements in respect of the Kentucky state veterans' nursing homes [~~as are~~]necessary or desirable to provide revenues to amortize and secure ***the***[~~such~~] revenue bonds."

And, on page 63, line 26, by changing "Section 48" to "Section 50".

SB 289, AN ACT relating to lead hazardous reduction.

WHEREAS, the General Assembly finds that lead poisoning is a significant health hazard to the citizens of the Commonwealth of Kentucky, particularly children who typically are exposed to lead through environmental sources, including lead-based paint in housing, lead-contaminated dust, and soil; and

WHEREAS, the General Assembly finds that improper abatement of lead hazards within the Commonwealth constitutes a serious threat to the public health, safety, and welfare of the citizens of the Commonwealth and to the environment; and

WHEREAS, the General Assembly finds that the handling of lead-containing substances by inadequately trained employers, employees, and other persons subjects the citizens of the Commonwealth to the risk of further release of lead into the environment; and

WHEREAS, the General Assembly finds that the public health, safety, and welfare, as well as the environmental concerns of the Commonwealth, will best be protected if all employers and employees who handle lead-contaminated substances are thoroughly trained and knowledgeable with regard to safe methods of handling and disposing of lead-contaminated materials; and

WHEREAS, it is in the public interest to encourage public awareness of the hazards associated with lead in the environment and to increase public awareness of the state and federal laws and regulations designed to correct hazardous conditions caused by lead;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) The appropriate committee of the Legislative Research Commission is directed to study lead hazard reduction in the Commonwealth and the need for, and methods of, licensing and certifying lead hazard reduction personnel.

(2) The study shall be conducted during the 1994-95 Interim and the appropriate committee shall report its findings to the Legislative Research Commission no later than October 31, 1995.

(3) Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 344, AN ACT relating to the Flood Control Advisory Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.560 is amended to read as follows:

(1) There is hereby created the Flood Control Advisory Commission, which shall be composed of ***sixteen (16)*** [~~fifteen (15)~~] members ***appointed by the Governor*** as follows:

(a) [~~The Governor shall appoint six (6) members:~~] Two (2) state legislators, one (1) from the Senate and one (1) from the House of Representatives; two (2) mayors; and two (2) county judges/executive; and

(b) [~~The Legislative Research Commission shall appoint nine (9) members,~~] One (1) ***member*** from each of the following river basins: Big Sandy; Licking; Kentucky; Salt; Green; Ohio River Main Stem; Tennessee; Mississippi; and Upper Cumberland***; and***

(c) The commissioner of the Department of Local Government or commissioner's designee.

(2) ***Except for the commissioner of the Department of Local Government,*** each member shall serve a four (4) year term, except the first commission members ***were*** appointed by the Legislative Research Commission ***to*** [~~who shall~~] serve terms as follows:

(a) Three (3) members ***to*** [~~shall~~] serve for terms of two (2) years from the date of appointment;

(b) Three (3) members ***to*** [~~shall~~] serve for terms of three (3) years from the date of appointment; and

(c) Three (3) members ***to*** [~~shall~~] serve for terms of four (4) years from the date of appointment.

(3) Commission members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Any member who misses three (3) consecutive meetings of the commission shall be deemed to have vacated the office. The commission shall declare the office vacant, and the office shall be filled as provided by subsection (3) of this section.

(5) Two (2) of the commission members shall be elected by the commission to serve on the Water Resources Authority of Kentucky, which service shall cease with the expiration of the term of appointment on the commission, if not sooner.

(6) The commission shall annually elect one (1) of its members as chairperson. The commission shall meet quarterly or more often if necessary. A quorum for the transaction of business shall be nine (9) members, and a majority of the members present at a meeting may take action on any matter legally before it.

(7) Members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties.

(8) [~~The commission shall employ an executive director, who shall be qualified on the basis of administrative ability in water resources management. The commission, on the advice of the executive director, shall employ additional staff, as required, who are knowledgeable in such areas as hydrology, geology, engineering, municipal planning, regional planning, economics, and secretarial science. The commission may engage, as needed, the professional services of individuals on a contractual basis.~~

~~(9)~~] The commission shall be attached for administrative purposes to the ***Department of Local Government which shall provide the staff services and resources necessary to support the commission in the performance of its statutory duties through the Division of Flood Control established by Section 2 of this Act*** [~~Finance and Administration Cabinet.~~

~~(10) The commission shall receive an annual appropriation from the general fund and shall prepare a line-item budget, which shall appear as a line item in the executive branch biennial budget recommendation and in the biennial branch budget bill.~~

~~(11) The commission may receive private funds, federal grants, and discretionary funds from the Natural Resources and Environmental Protection Cabinet~~].

(9)[~~(12)~~] The commission shall ***promulgate administrative*** [~~issue rules and~~] regulations as necessary to control internal procedures. The commission shall ***promulgate*** [~~establish~~] by ***administrative*** regulation the boundary for each river basin referred to in subsection (1)(b) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) The Division of Flood Control is created within the Department of Local Government.

(2) The division shall be headed by a division director appointed by the commissioner of the Department of Local Government, with the approval of the Governor.

(3) The division shall be responsible for providing staff services to the Flood Control Advisory Commission established under KRS 151.560, assisting the commission in its duties established under KRS 151.570, and other duties as prescribed to the division by the commissioner.

Section 3. Members of the Flood Control Advisory Commission serving on the effective date of this Act shall be eligible to complete the terms that they are serving at that time, but upon completion of those terms, their successors shall be appointed in accordance with Section 1 of this Act. The term of the commissioner of the Department of Local Government shall begin upon the effective date of this Act.

SB 367, AN ACT relating to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) ***For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific Islander; or***

other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a member of the minority group even if the list of nominees for a vacancy does not include a member of the minority group.

(4) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution. [~~Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted.~~]

(5)[~~(2)~~] When a board, commission*,* or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

SCR 74, A CONCURRENT RESOLUTION to create a commission to study poverty in the Commonwealth.

WHEREAS, according to the 1990 Census, 19% of Kentucky's population lives in poverty; and

WHEREAS, in 1970 the state poverty rate was 22.9%, and in 1980 it was 17.6%; and

WHEREAS, these numbers, which are relatively stable over a 30 year period, reflect the continuing inability to develop programs which actually reduce the incidence of poverty in the state; and

WHEREAS, the poverty rate is the highest in the counties of Eastern Kentucky, while the greatest number of those living in poverty are located in the urban areas, indicating that there may need to be a variety of strategies to effectively address the problem;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Legislative Research Commission shall appoint a Commission on Poverty.

Section 2. The Commission on Poverty shall be composed of the following nineteen (19) members:

(1) The House and Senate chairs, or their designees, of each of the following interim joint committees: Education; Health and Welfare; Economic Development; and Cities and Local Government; and

(2) Eleven (11) at-large members appointed by the Legislative Research Commission, including: university representatives who are active in programs associated with poverty and development in the state; nongovernmental organizations which work in the various areas with a high incidence or rate of poverty; residents of urban and rural areas with a high incidence or rate of poverty; and individuals with long standing knowledge and experience with policies and programs addressing the issue of poverty in Kentucky.

Section 3. The Commission on Poverty shall:

(1) Develop a thorough description of the characteristics of Kentucky's poor;

(2) Investigate the particular causes of poverty in various areas of the state and among various categories of the poor;

(3) For the purposes of this study, focus its attention on the causes of poverty rather than on its effects, except as those effects contribute to a cycle of poverty;

(4) Evaluate the ability of existing poverty and development programs to mitigate the causes of poverty in the identified areas and among the identified categories of the poor; and

(5) Recommend improvements in any state programs which could mitigate the causes of poverty with an aim toward making them more integrated with each other and more responsive to local conditions.

Section 4. The co-chairs of the Commission on Poverty shall be appointed by the Legislative Research Commission from among the legislative members of that commission.

Section 5. The Commission on Poverty shall submit its findings and recommendations to the Legislative Research Commission by August 31, 1995.

Section 6. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitation and other research responsibilities of the Commission.

The Committee on Education reported **SB 81,** with Committee Amendment attached thereto, **SB 305, SB 314, SB 343, SCR 81, SJR 82, SCR 84** and **SB 238,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 81, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after January 1, 1984. In the event this service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2) (b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1) (c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. ***A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.***

The Committee Amendment No. 1 to **SB 81** is as follows:

On page 1, after the enactment clause and before line 1, by inserting the following:

"Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the five (5) year period, multiplied by twelve (12); the five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: ***two thousand eighty (2080) hours for eight (8) hour workdays,*** one thousand nine hundred fifty (1,950) hours ***for seven and one-half (7-1/2) hour workdays***, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability ***or*** [~~,~~] hazardous disability[~~, or partial disability~~];

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(24) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance;

(28) "Person" means a natural person; [~~and~~]

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort***; and***

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).

(2) [~~No person who is age thirty-one (31) or over shall be eligible to become an employee of the Kentucky State Police.~~

~~(3)~~] Membership in the system shall not include those employees who are simultaneously contributing to another state administered ***defined benefit plan*** [~~retirement fund~~] within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 3. KRS 16.537 is amended to read as follows:

(1) An employee ***age sixty-five (65) or older who has forty-eight (48) or more months of service or an employee under age sixty-five (65) who has sixty (60) or more months of service*** participating in the State Police Retirement System ***or a member with service as required by this section who participates in the Kentucky Teacher's Retirement System*** may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the County Employees Retirement System, Kentucky Employees Retirement System, Teachers' Retirement System or in the service of the United States government, other than service in the Armed Forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 16.545(4), by the employer.

(2) Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4) No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 4. KRS 16.576 is amended to read as follows:

(1) [~~A member shall terminate employment on his normal retirement date.~~

~~(2)~~] Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what time the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.

(2)[~~(3)~~] The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5), or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(3)[~~(4)~~] Effective August 1, 1990, a member of the Kentucky State Police Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(4)[~~(5)~~] The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978, or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective with any insurance contract procured, or self-insurance plan instituted, after July 15, 1990, a member who retired prior to June 17, 1978, and his spouse and dependents or beneficiary shall receive insurance benefits pursuant to KRS 61.702 upon payment by the member or beneficiary of the entire cost of the required insurance premium.

(5)[~~(6)~~] Notwithstanding any other provisions of this section, upon written notification to the system, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(6)[~~(7)~~] In lieu of any other benefits due under KRS 16.505 to 16.652, a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 5. KRS 16.596 is amended to read as follows:

Once each year following the retirement of a member on a disability retirement allowance, the system may require the member, prior to his normal retirement date, to undergo a medical examination *and financial review*. If the member refuses to submit to the medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if he continues to refuse for one (1) year, all his rights to any further disability allowance shall cease.

SECTION 6. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent;

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit;

(c) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61,543(1) or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application shall be accepted for any person who has previously applied for and been denied disability benefits unless an application based on the same claim of incapacity is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness or disease;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or re-employment, whichever is most recent, unless the disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment.

(4) (a) An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember and carry out instructions and respond appropriately to supervision, co-workers and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth (55th) birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay, however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an

assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4)***. In the case of***[~~, except for~~] members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate; ***two thousand eighty (2,080) hours for eight (8) hour work days,*** nineteen hundred fifty (1,950) hours ***for seven and one-half (7 1/2) hour workdays***, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month ***determined by using the number of months actually worked within a calendar or fiscal year***, including all positions except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
- (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
- (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and
- (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS

61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person; and

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort.

Section 8. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Higher Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d); and

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state administered ***defined benefit plan*** [~~retirement fund~~] within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 9. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is issued by the State Treasurer:

(a) Each member may designate one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary. If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries. In the event of death of any or all multiple beneficiaries, the deceased beneficiary's estate shall receive a lump sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive. This designation shall remain in full force and effect until changed by the member, except that a final divorce decree terminates an ex-spouse's status as beneficiary, unless the member redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;

(b) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;

(c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590 because of circumstances rendering the person unable to act, the contingent beneficiary shall become the principal beneficiary or beneficiaries; and

(d) If the deaths of both the principal beneficiary or beneficiaries and the contingent beneficiary or beneficiaries precede the death of the member, the estate of the member becomes the beneficiary provided the member does not have on file a notification of retirement at the retirement office.

(2) When the first retirement allowance payment is issued by the State Treasurer and subsequent thereto:

(a) The beneficiary designated by the member on his notification of retirement, which shall be one (1) person, his estate or a trust or trustee, supersedes the designation of any and all previous beneficiaries. If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the State Treasurer, the member may designate another beneficiary on his notification of retirement; and

(b) A member shall not have the right to change his beneficiary after the first benefit payment has been issued by the State Treasurer. The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member or if the retired member had designated a spouse and they were divorced on the date of the retired member's death.

(3) If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under any other statute, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate shall become the beneficiary.

(4) When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries. When a request for refund has been filed at the retirement office, the member's estate shall become the beneficiary if the member dies before receiving the refund.

Section 10. KRS 61.543 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee did not elect to become a member as provided by subsection (2) of KRS 61.525, or unless the employee did not elect membership pursuant to KRS 61.545(3). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month the contributions are deducted or picked up during a fiscal or calendar year, if the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;

(b) A member on educational leave, approved by the Department of Personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or the contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and

(c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during the period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 61.575.

(5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the employee received creditable compensation for an average of one hundred (100) or more hours of work, if the employee pays to the retirement system the contributions that would have been deducted for the period of employment. The contributions shall be credited to the member's contribution account and shall not be picked up pursuant to KRS 61.560(4). The employer contributions for the period, plus interest calculated at the actuarial rate, shall be due within thirty (30) days of notice of receipt of payment from the employee.

Section 11. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall

not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) Employees participating in one (1) of the state administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employee or the school board may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1992, or their employers, may purchase service credit for previous years ***by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate*** [~~if payment is made by August 1, 1993~~].

(3) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

Section 12. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer [~~whose employment has previously been terminated and~~] who has been refunded his accumulated contributions ***under the provisions of KRS 16.645(22), 61.625 or 78.545(15)***, thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050***, or by a business development corporation created pursuant to KRS 155.001 to 155.230,*** which does not participate in the County Employees Retirement System ***or the Kentucky Employees Retirement System*** may obtain credit for the period of his service with the area development district ***or the business development corporation*** by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. ***The employee may obtain credit for employment with a business development corporation only if the Kentucky***

Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has ***at least forty-eight (48) months service if age 65 or at least sixty (60) months service if under age 65*** [~~obtained for service performed six (6) months' current service credit~~] in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80)

or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

- (a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or
- (b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. ***The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.*** The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

- (a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.
- (b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).
- (c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.
- (d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
- (e) If the employee dies, retires, ~~[terminates employment,]~~ or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.
- (f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402***(c)***[~~(a)(5)~~] of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover ***to the extent permitted under the rules specified in Section 402(c) and Section 401(a)(31) of the Internal Revenue Code***. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months service or, if younger, who has sixty (60) months service may purchase credit in the Kentucky Employees Retirement System for up to ten (10) years service ***in a regular full-time position*** that was credited to a state administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible ***to the extent permitted*** under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) Any employee participating in the County Employees Retirement System and determined to be in a hazardous position, who has sixty (60) or more months of service, may purchase credit in the County Employees Retirement System for up to ten (10) years of service ***in a regular full-time position*** that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible ***to the extent permitted*** under subsection (16)(h) of this section and to the extent permitted by other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

Section 13. KRS 61.558 is amended to read as follows:

(1) An employee participating in the Kentucky Employees Retirement System, or a former employee not yet retired who has not withdrawn his contributions pursuant to KRS 61.625, or who has repaid withdrawn contributions, and who participates in the Teachers' Retirement System, may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the County Employees Retirement System, the Teachers' Retirement System, State Police Retirement System or in the service of the United States government, other than service in the Armed Forces, for which service credit is not otherwise given by paying to the system a delayed contribution payment. ***To be eligible to purchase this service, the employee or member at age sixty-five (65) shall have forty-eight (48) or more months of service or the employee or member under age sixty-five (65) shall have sixty (60) or more months of service.*** No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

(2) Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4) No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 14. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852 and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment and other information the system may require.

(2) Within ten (10) days of the receipt of the notification of retirement form, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary.

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the State Treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment ***in a regular full-time position*** occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office, if employment ***in a regular full-time position*** has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576***(5)***[~~(6)~~] shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the State Treasurer and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 15. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State

Police Retirement System as provided for by KRS 16.510 to 16.652[~~, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable~~].

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 16. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment in a regular full-time position; [~~and~~]

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665***; and***

(e) No disability application shall be accepted for any person who has previously applied for and been denied disability benefits unless an application based on the same claim of incapacity is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.

(2) Upon the examination by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment;

(b) The incapacity is a result of bodily injury, mental illness, or disease;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent.

(3) Paragraph (d) of subsection (2) shall not apply if[~~:~~

~~(a)~~] the incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment[~~; or~~

~~(b) The disabled recipient has returned to work on a trial basis not exceeding nine (9) months~~].

(4) ***(a)*** An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position. ***The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.*** [~~For the purposes of determining permanence under this section, the board's medical examiners shall use the medical criteria under the Social Security disability program.~~]

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember and carry out instructions and respond appropriately to supervision, co-workers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards;

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to

perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (4) of this section.

Section 17. KRS 61.615 is amended to read as follows:

(1) If a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties as the position from which he was disabled, *except where the recipient has returned to work on a trial basis not to exceed nine (9) months,* the board may reduce the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment, otherwise, the system shall have the right to recover payments made during the employment.

(2) If it is determined that any disabled recipient is able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified.

(3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize procedures consistent with KRS 61.665, including services of an examiner, in determining the amount of reduction in retirement allowance under this section.

(4) If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2) and further reduced by the actuarial value of the total amount of the disability retirement allowances he has received prior to reduction or discontinuation;

(d) The member shall remain eligible for reinstatement of his disability allowance upon re-evaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the system after the member's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the member is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 18. KRS 61.625 is amended to read as follows:

(1) If a member's employment has been terminated or if the member is employed by a participating employer in an employment status as defined in KRS 61.510(21)(a) to (d) or 78.510(21)(a) to (d), that does not require the member to participate in the system, the member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of *taxable distributions made pursuant to this section* [~~picked up employee contributions~~] shall be subject to state and federal tax as appropriate.

(2) Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 19. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595;

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned ***over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65)*** ~~[during reemployment over the maximum permissible earnings]~~.

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

Section 20. KRS 61.640 is amended to read as follows:

(1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the State Department of

Personnel, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the State Department of Personnel, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in the active employment of a participating agency nor on official leave from the agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.

(5) If the member, subject to subsection (1), (2), (3) or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator, or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3) or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.

(7) In the case of a single beneficiary, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

(8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

Section 21. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9)

members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require without limitations of KRS 45A.045;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

[~~(d) The state local finance officer shall have an initial term beginning on April 1, 1992.~~]

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment

by a majority vote of the remaining trustees, and if the commissioner of personnel [~~or the state local finance officer~~] resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board***,***[~~;~~] and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and ***promulgate*** [~~make~~] all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that [~~if any of~~] the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 ***conform*** [~~are in conflict~~] with federal statute or regulation***.***[~~, the~~] Provisions ***of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation*** shall not be available to the member***.*** [~~and~~] The board shall have the authority to ***promulgate*** [~~adopt alternative~~] administrative regulations ***to conform*** [~~that are in conformance~~] with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) (a) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with the administrative regulation promulgated by the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court within thirty (30) days of the final order. No new or additional evidence shall be introduced and the court shall decide the case upon the record as attested.

(b) In the discharge of its duties ***under this section***, the board or its delegate may conduct hearings, administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, documents, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of the systems***, but the board or its delegate shall not issue subpoenas to compel the attendance of witnesses at hearings which relate to disability benefits***. A subpoena shall be served in the same manner as a subpoena issued by a Circuit Court, and the sheriff, if he serves the subpoena, shall receive the same fee as provided by law for like service in civil actions. In case of refusal to obey a subpoena issued to any person, any Circuit Court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to comply with the terms of the subpoena. Failure to obey the order of the court may be punished as contempt of court.

Section 22. KRS 61.661 is amended to read as follows:

(1) Each ***current, former, or retired*** member's account shall be administered in a confidential manner and specific data regarding a ***current, former, ~~or~~ retired*** member shall not be released for publication unless authorized by the member***,***~~[;]~~ however, the system may release ~~[member]~~ account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law. The ***current, former, or retired*** member's account shall be exempt from the provisions of KRS 171.410 to 171.990.

(2) When a subpoena is served upon any employee of the Kentucky Retirement Systems, requiring production of any specific data regarding a ***current, former, or retired*** member, it is sufficient if the employee of the Kentucky Retirement Systems charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena.

(3) The certification shall be signed before a notary public by the employee and shall include the full name of the member, the member's Social Security number and a legend substantially to the following effect: "The records are true and

complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."

(4) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.

(5) When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the Kentucky Retirement Systems charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.

(6) Records of the Kentucky Retirement Systems that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this section.

(7) When a subpoena is served on any employee of the Kentucky Retirement Systems requiring the employee to give deposition for any purpose, in the absence of a court order requiring deposition of the specific employee, the system may designate an employee to be deposed upon the matter in the subpoena.

Section 23. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also submit a complete description of the job and duties from which he received his last pay;

(b) The employer shall submit a complete description of the job and duties for which the employee was last paid;

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office;

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office;

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval;

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee;

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to submit additional medical information to the retirement office or to appeal his denial for disability benefits by requesting a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing;

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by an order or determination of the system may request that a hearing be conducted by the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the

system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may request a de novo formal hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action[~~, unless upon resubmitting his request, he can prove to the system a substantial change in his condition~~]. This paragraph shall not limit the member's right to appeal to a court.

(c) Upon request pursuant to subsection (2)(g) of this section, the system shall schedule a hearing to be held not more than sixty (60) days after the notice of demand for a hearing has been received by the system, unless an extension is granted by the hearing officer for good cause shown. The hearing officer may recommend a favorable determination based upon the information in the member's file available prior to the hearing. If the recommended favorable action is approved, the hearing shall be canceled. The hearing officer shall not extend the time for a hearing beyond a total of one hundred twenty (120) days. The notice of hearing shall be served in accordance with subsection (6) of this section and shall include a statement of the time, place, and nature of the hearing.

(d) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(e) All formal hearings shall be de novo as to all issues of fact and law, and those findings previously adjudicated by a final order of the system following a formal hearing shall be binding against any party or parties to subsequent formal hearings. Any party to a hearing may be represented by counsel, make oral or written argument, offer testimony, orally or by deposition, cross-examine witnesses, introduce direct testimony from a physician or other expert approved by the hearing officer through a written report, or take any combination of such actions. The system or the member may compel the production of documents by the issuance of subpoenas [~~pursuant to KRS 61.645~~]. ***A subpoena shall be served in the same manner as a subpoena issued by a Circuit Court, and the sheriff, if he serves the subpoena, shall receive the same fee as provided by law for like service in civil actions. If any person refuses to obey a subpoena, any Circuit Court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to comply with the terms of the subpoena. Failure to obey the order of the court may be punished as contempt of court.*** Witness testimony may be given by deposition in lieu of personal appearance. An impartial hearing officer appointed and paid by the board shall preside at the hearing, shall keep order, and shall conduct the hearing in accordance with reasonable administrative practice. Oaths and affirmations shall be administered by the hearing officer or court reporter. The hearing officer shall permit any party to represent himself. Failure to appear without good cause or failure to comply with any prehearing or interlocutory order of the hearing officer shall be grounds for a default.

(f) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted, unless precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the system's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data; and they shall be afforded an opportunity to contest the material so noticed. The system's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(g) Each formal hearing shall be recorded, and a transcript made available on the ***written request or*** motion of any party or by order of the hearing officer. Unless otherwise agreed, the party requesting the transcript shall provide payment for the original, and all others desiring copies shall pay the cost thereof. When certified as a true and correct copy of the testimony by the system, the transcript shall constitute the official transcript of the evidence.

(h) ***Unless the hearing officer orders that the record remain open, the record shall be deemed closed at the adjournment of the informal hearing, and no new material may be admitted to the record except upon written request or motion to reopen the record made prior to the issuance of the hearing officer's report and recommended order. The hearing officer shall enter an order specifying the date of closure of the record at***

the hearing or prior to issuance of the report and recommended order. The hearing officer, upon written request or motion of a party made prior to the issuance of the report and recommended order may reopen the record and extend the time for submission of additional evidence for a period not to exceed fourteen (14) days. The hearing officer shall make a determination after hearing and based on a preponderance of the evidence appearing in the record as a whole. The hearing officer shall prepare findings of fact and conclusions of law and may recommend an approval or a reduction, discontinuance or denial of disability benefits pursuant to subsection (2)(g) of this section or KRS 61.615(1).

(i) The hearing officer shall, within thirty (30) days of the close of the ***record*** ~~[formal hearing]~~ make a report and a recommended order to the board. The report and recommended order shall contain the appropriate findings of fact and conclusions of law. If the board finds upon written request of the hearing officer that additional time is needed, the board may grant a reasonable extension. The hearing officer shall mail, postage prepaid, a copy of his report and recommended order to all parties. The parties may file within fourteen (14) days of receipt of the hearing officer's report and recommended order exceptions to the report and recommended order. ***Any party may file a response to any exceptions within five (5) days of the expiration of the period provided for the filing of exceptions. No material not already of record may be attached to the exceptions. There shall be no other filings.***

(j) The board shall consider the report and recommended order and any exceptions filed and pass upon the case within a reasonable time in accordance with the administrative regulations adopted by the board. The board may remand the matter to the hearing officer, adopt the report and recommended order of the hearing officer as the system's final order, or issue their own final order.

(k) The system shall mail the final decision of the board to the member or his legal representative. If any extension of time is granted by the board for a hearing officer to complete his report, the system shall notify the member or his legal representative at the time of the granting of the extension.

(l) The board shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) extensions shall be granted.

(m) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(n) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(o) There shall be no ex parte communications between the parties or representatives of the parties and the hearing officer regarding a particular member.

(p) Formal hearings shall be held at the system's office in Frankfort unless another location is determined by the hearing officer.

(q) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing suit in the Franklin Circuit Court within thirty (30) days after the requester receives notice, as described in subsection (6) of this section, of the board's determination. No new or additional evidence shall be introduced in that proceeding and the court shall hear the case upon the record as ***finally closed by order of the hearing officer*** ~~[attested]~~.

(6) Any notice or order reducing, discontinuing, or denying disability benefits shall be served by one (1) of the following methods:

(a) The system may place a copy of the document to be served in an envelope, and address the envelope to the member to be served at the address of the member existing in the system files or at the address set forth in written instructions furnished by the member or his legal representative. The system shall affix adequate postage and place the sealed envelope in the United States mail as certified mail return-receipt requested. The system shall forthwith enter the fact of mailing in the record and make an entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, that fact shall be entered in the record. The system shall file the return receipt or returned envelope in the record. Service by certified mail is complete upon delivery of the envelope. The return receipt shall be proof of the time, place, and manner of service.

(b) The system may cause the document, with necessary copies, to be transferred for service to any person authorized by the system or by any statute or rule to deliver them, who shall serve the documents, and the return endorsed thereon shall be proof of the time and manner of service.

(c) The methods of service specified by this statute shall be supplemental to and shall be accepted as an alternative to any other method of service specified by other applicable law.

(7) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 24. KRS 61.685 is amended to read as follows:

(1) ***Notwithstanding the provisions of KRS 413.010 to 413.340,*** if any change or error in records results in any present or former ***employee,*** member**,** or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, on discovery of any error, the system shall correct the same.

(2) Neither the board nor any of its individual members shall be liable to any person for any claim arising from the failure of any participating employer, or any employer who should have been participating in any retirement system operated by the board, to make retirement contributions on behalf of the person.

Section 25. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the

Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: ***two thousand eighty (2080) hours for eight (8) hour workdays,*** nineteen hundred fifty (1950) hours ***for seven and one-half (7 1/2) hour workdays***, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, ***determined by using the number of hours actually worked in a calendar or fiscal year or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year,*** unless otherwise specified, except:

   (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

   (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

   (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

   (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked ***in a calendar or*** ~~{within the}~~ school ***year*** ~~{term}~~, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30; ~~{and}~~

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort***; and***

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service

with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434.

Section 26. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously contributing to another ***state administered defined benefit plan*** ~~[public retirement fund]~~ within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 27. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, armed forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) Death benefit, as provided by KRS 61.705;

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569; ~~[and]~~

(39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699***; and***

(40) Disability procedure for members in hazardous positions as provided for in Section 6 of this Act.

Section 28. KRS 78.605 is amended to read as follows:

(1) An employee participating in the county employees' retirement system***, or a former employee who has not withdrawn his contributions pursuant to KRS 61.625, or who has repaid withdrawn contributions, and who participates in the Teachers' Retirement System,*** may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the Teachers' Retirement System, the State Police Retirement System or in the service of the United States government, other than service in the Armed Forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. Such payments shall not be picked up as described in KRS 78.610(4). ***To be eligible to purchase this service, the employee or member age sixty-five (65) shall have forty-eight (48) or more months of service credit and the employee or member under age sixty-five (65) shall have sixty (60) or more months of service credit.***

(2) Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4) No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 29. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by subsection (2) of KRS 78.540. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4). Service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month ***based on the actual hours worked in a calendar or fiscal year***, except in the case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month. If the average number of hours of work is less than one hundred (100) hours per month, or in the case of noncertified employees of school boards eighty (80) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work, or in the case of noncertified employees of school boards eighty (80) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Department of Personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Section 30. KRS 16.165 is amended to read as follows:

Any State Police officer (as defined in KRS 16.010) who becomes disabled after July 1, 1977, as a direct result of an injury or disease arising out of the performance of a hazardous duty in the course of employment with the department may elect to be retained on the regular payroll of the Department of State Police subject to the following:

(1) Compensation paid to the officer by the department shall be adjusted and maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the department, and shall include annual increments, salary adjustments, and other benefits of employment, provided, however, such compensation paid to the officer by the department shall be reduced by the amount of payments received by the officer from workers' compensation insurance, Social Security benefits and other federal or state financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care. The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his creditable compensation for purposes of KRS 16.510 to 16.652.

(2) Such officer shall be assigned by the commissioner of the Department of State Police to a position in the department for which he is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this section. If the commissioner determines that the officer is unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this section without the performance of limited duties. Any officer adversely affected or aggrieved by a final determination of the commissioner pursuant to this section may appeal within thirty (30) days to the local Circuit Court.

(3) Payments made pursuant to this section shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability retirement allowances pursuant to ***Section 6 of this Act*** ~~[KRS 16.581 or 16.591]~~. If the officer receives preretirement payments under this section or KRS 16.167 and subsequently elects disability retirement, the effective date of his disability retirement shall be the first month following the month in which the officer last receives preretirement payments under this section or KRS 16.167, KRS 16.505(16) to the contrary notwithstanding.

(4) Any State Police officer, disabled prior to July 1, 1977, as a result of severe physical injuries arising out of the performance of duty, who is unable to maintain gainful employment as a result of such injuries, but who was ineligible for retention on the regular payroll because of the date of his injury, shall, if his time in active service plus his time on disability retirement allowance equal the time necessary for normal retirement pursuant to KRS 16.505(15), have his retirement allowance increased to the amount he would receive, had he been retained on the regular payroll of the department pursuant to this section and had he subsequently elected normal retirement pursuant to KRS 16.576 when first eligible, but any survivor option which he chose at the time of disability retirement shall not be changed.

Section 31. KRS 61.596 is amended to read as follows:

(1) Any employee hired on or before January 1, 1988, who is a participating member of the Kentucky Employees Retirement System and who has service credit in the retirement system as prescribed in KRS 61.559(2)(a), (b), (c) or (d), or any employee hired on or before January 1, 1988, who is participating in the State Police Retirement System and who meets the requirements of KRS 16.505(15) or (21) may receive additional service credit equal to ten percent (10%) of his actual service credit prior to the addition of service credit for accrued sick leave as provided in KRS 61.546. Any employee of a parted employer hired on or before January 1, 1988 who meets the requirements of KRS 61.559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.

(2) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall not be used in determining the member's eligibility for medical insurance under KRS 61.702 or in determining the reduction in benefits under KRS 61.595(2).

(3) The employee shall submit a notification of retirement as prescribed in KRS 16.576***(1)***~~[(2)]~~ or 61.590(1) no earlier than July 15, 1988, and no later than September 30, 1988, except that the provisions of this section shall not apply in the case of disability or in the event the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the agency or department in which he is employed and the Department of Personnel of his intent to retire under the provisions of this section. The effective date of retirement under this section shall be the first of the month following termination of employment, except that the retirement date shall not be earlier than August 1, 1988, and not later than November 1, 1988. The employee may void his decision to retire under the provisions of this section if he does so in writing to retirement systems, the Department of Personnel and his agency or department no later than September 30, 1988.

(4) The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of

this section for each employee and the cost shall be paid by the agency or department from which he terminates employment. The money paid by the agency or department shall be added to the retirement allowance account of the retirement system from which the member draws his retirement allowance and shall not be considered accumulated contributions of the member. The agency or department shall submit payment for the cost of such service upon the last day of the month in which the member terminates or in two (2) installments. If the agency or department elects to pay the cost in two (2) installments, the agency shall pay an amount equal to fifty and four hundred and eighty-one thousandths percent (50.481%) of the total cost upon the member's termination date and within ninety (90) days of that date.

(5) Any employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed, earning more than the Federal Social Security Act maximum for a retired person with an agency participating in the retirement system from which he retired, within a period of time equal to the amount of additional service he received under subsection (1) of this section.

(6) The Kentucky retirement systems shall notify all employees eligible for the provisions of this section, the Department of Personnel and each eligible employee's agency of the provisions of this section by May 1, 1988. The Kentucky retirement systems shall conduct regional seminars between June 1 and July 31, 1988, to explain the provisions of this section and shall, upon the request of the eligible employee, provide an estimate of his benefits under this section.

(7) The purpose of this section is to bring expenditures in line with general fund revenues. No discrimination is intended by this section against any present or future employees. It is the intent of this section to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 32. The following KRS sections are repealed:

16.580 Total and permanent disability -- Conditions.

16.581 Total and permanent disability -- Allowances -- Exception.

16.586 Partial disability, what constitutes.

16.591 Partial disability allowances -- Exception.

16.598 Hazardous disability retirement benefits."; and

on page 1, line 1, by changing "Section 1." to read "Section 33.".

SB 305, AN ACT relating to the Workforce Development Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the commissioner for the Department for Adult and Technical Education or any person authorized by the commissioner to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing and signed by both the commissioner and his designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(4)(i).

(3) "Board" means the State Board for Adult and Technical Education created by KRS 151B.095.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Adult and Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) "Commissioner" means the commissioner for the Department for Adult and Technical Education.

(8) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(9) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(10) "Department" means the Department for Adult and Technical Education as provided by KRS 151B.025.

(11) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Adult and Technical Education requiring certification or its equivalent.

(12) "Employee" means a person regularly employed in a position in the Department for Adult and Technical Education for which compensation is on a full-time or part-time basis.

(13) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the

administration and conduct of educationally related services. These employees in the Department for Adult and Technical Education shall be subject to personnel administration under this chapter.

(14) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(15) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(16) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(17) "Limited status" means employment that is renewable on an annual basis.

(18) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(19) "Position" means employment in the department involving duties requiring the services of one (1) person.

(20) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(21) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(22) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(23) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Adult and Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(24) "Region" means a grouping of counties as defined in respective state plans for vocational education ~~[and for vocational rehabilitation]~~.

(25) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(26) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(27) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(28) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(29) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position, as well as any assistant or secretary attached to the position, who shall be exempt from the state service under KRS Chapter 18A and who is employed in the Department for Adult and Technical Education under this chapter.

Section 2. KRS 151B.035 is amended to read as follows:

(1) Effective July 1, 1990, all existing staff in the field offices and the state-operated vocational schools and appropriate central office personnel from the Kentucky Department of Education shall be transferred to the Department for Adult and Technical Education. Those individuals with merit status shall be transferred to the department. Those employees who are on probation shall be transferred but shall be subject to completion of the probationary period. Annual, compensatory, and sick leave accrued as of July 1, 1990, shall be transferred with the employees.

(2) The State Board for Adult and Technical Education shall adopt and establish by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult and Technical Education central office, state-operated vocational facilities, and regional staffs. The regulations shall not become effective until October 1, 1990. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. ***Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.***

(3) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult and Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(4) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

  (a) Establishment and abolishment of positions;

  (b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the Kentucky Tech System school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(5) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body, other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult and Technical Education.

(6) The commissioner for adult and technical education shall be the appointing authority with respect to all personnel actions. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(7) The board shall adopt other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices and central office in the Department for Adult and Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

(8) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(9) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for a due process hearing and appeal system for aggrieved certified or equivalent employees.

(10) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(11) The board may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final decision or determination, based upon the evidence submitted.

(12) The board shall promulgate regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other regulations authorized by this chapter.

(13) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

Section 3. KRS 151B.050 is amended to read as follows:

Except as provided by the provisions of this chapter, the commissioner for adult and technical education may refuse to consider an applicant for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove ***an employee*** [~~the person~~] already appointed if:

(1) It is found that the person did not maintain certification or that certification has been revoked for the position;

(2) The person is unable to perform the duties of the position;

(3) The person made a false statement of material fact in the application;

(4) The application was not submitted correctly or within the prescribed time limits;

(5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;

(6) The person [~~or employee~~] has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(7) The person has previously been dismissed from a position in the department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or

(8) The person has otherwise violated the provisions of this chapter.

Section 4. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Department for Adult and Technical Education.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or his designee.

(3) The department shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner for adult and technical education or his designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or his designee.

(5) The appearance shall be ***held*** ~~[scheduled]~~ six (6) working days after receipt of an employee's request to appear before the commissioner or his designee, excluding the day the employee's request is received***, unless the employee and the commissioner or his designee agree to a later date***.

(6) No later than five (5) working days after the employee appears before the commissioner or his designee, excluding the day of the appearance, the commissioner or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the commissioner or his designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

(a) The effective date of dismissal or other penalization;

(b) The specific reason for the action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal is based;
3. The date, time, and place of the action or activities; and
4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion or suspension is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, ***disability*** ~~[handicap]~~, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, ***disability*** ~~[handicap]~~, or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The department shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the commissioner shall be notified and the board shall schedule a hearing within the time limits prescribed by this section.

(12) All notices from the board shall be in writing ***and mailed to the employee's last known address***. Notices shall be written so as to be understood by nonattorneys. ***Service by mail shall be considered complete upon mailing.***

(13) (a) The appealing employee and the commissioner whose action is appealed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts.

(b) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section.

(c) The board may deny a hearing to an employee who has failed to file an appeal ***over which the board has jurisdiction or*** within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 151B.060.

(d) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts, and information contained in the record.

(14) At the hearing of appeals, technical rules of evidence shall not apply. Upon its own motion or upon request of a party, the board may require the production by a party, an employee, or the department, of documents, records, and other material relevant to the appeal.

(15) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(16) A board member or hearing officer shall neither initiate, participate in, nor consider ex parte communications concerning a pending or impending proceeding before the board, except as specifically authorized by administrative regulation of the board in the conduct of a prehearing mediation and settlement procedure formally established by the board under KRS Chapter 13A. Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(17) An appeal to the board may be heard by the full board or a hearing officer.

(18) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or ***disability*** ~~[handicap]~~, the commissioner shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(19) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

(20) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall promptly issue a final determination for the disposition of the appeal.

Section 5. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The department shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant ***from outside the Department for Adult Education and Literacy or the Department for Technical Education,*** except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies the department in writing that he no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, such offers to be for a position of the same classification and salary, and located in the same region, as the position from which laid off;

(c) Without good cause, the laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(d) The laid-off employee cannot be located by postal authorities at the last address provided; or

(e) The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 6. KRS 151B.125 is amended to read as follows:

(1) For purposes of any public employment, a ***High School Equivalency Diploma*** [~~GED certificate~~] shall be considered equal to a high school diploma. A ***High School Equivalency Diploma*** [~~GED certificate~~] shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5) fee may be assessed by the State Board for Adult and Technical Education for the issuance of a duplicate [~~GED~~] High School Equivalency ***Diploma and for issuance of a duplicate score report*** [~~certificate~~]. All fees collected for duplicate ***diplomas and score reports*** [~~certificates~~] shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) [~~Curriculum shall be developed for GED essay writing and~~] GED teachers in local districts shall receive training to teach writing skills to adults; ***and***

(b) ***The Department for Adult Education and Literacy is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay*** [~~Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;~~

~~(c) Staff shall be employed and trained by the Department for Adult and Technical Education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED high school equivalency examination; and~~

~~(d) Essay readers will be assigned to the Division of Adult Basic Education to score essays daily~~].

Section 7. KRS 151B.150 is amended to read as follows:

The State Board for Adult and Technical Education is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the acts of Congress accepted by KRS 151B.145, and is given all the necessary power and authority in ***promulgating administrative regulations and*** administering vocational education and carrying out the provisions of the acts relating thereto.

Section 8. KRS 151B.200 is amended to read as follows:

This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved June 2, 1920 (41 Stat. 735) relating to vocational rehabilitation and all subsequent acts [~~pertaining to state and federal vocational rehabilitation programs enacted prior to March 1, 1990,~~] when such acts apply to joint state and federally funded vocational rehabilitation programs. [~~The Governor of the Commonwealth may, by executive order, accept such Acts of Congress enacted subsequent to March 1, 1990, as may be deemed desirable and necessary.~~]

Section 9. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by

counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with ***the Adult and Education Act, 20 U.S.C. Section 1201, et seq.;*** [~~Public Law No. 98-524,~~] the Carl D. Perkins Vocational Education Act***, 29 U.S.C. Section 2301, et seq.***;[~~Public Law No. 97-300,~~] the Job Training Partnership Act***, 29 U.S.C. Section 1501, et seq.***; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;

(c) The secretary of the Cabinet for Economic Development, or his designee;

(d) The executive director of the Bluegrass State Skills Corporation;

(e) The executive director of the Governor's Council on Vocational Education;

(f) The office head for the Office of Vocational Rehabilitation;

(g) The office head for the Office of Vocational Education;

(h) The office head for the Office of Adult Education;

(i) ***The commissioner of the Department for the Blind;***

(j) The chancellor of the University of Kentucky Community College System;

(k)[~~(j)~~] A representative from the Kentucky Council on Higher Education;

(l)[~~(k)~~] A representative from the Kentucky Chamber of Commerce; and

(m)[~~(l)~~] Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 10. KRS 163.470 is amended to read as follows:

(1) There is created within the Cabinet for Workforce Development the Department for the Blind.

(2) The executive director shall be appointed by the Governor upon the recommendation of the secretary of the Cabinet for Workforce Development to whom he shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the Cabinet for Workforce Development is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired.

(4) All records, equipment, and personnel presently under the Division of Vocational Rehabilitation Services for the Blind, which includes the Kentucky Business Enterprises Program and the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind, under the jurisdiction of the Department of Rehabilitation Services, Department of Education, shall be transferred to the department. All funds budgeted to the Division of Vocational Rehabilitation Services for the Blind, the Kentucky Business Enterprises Program, the Kentucky Industries and Rehabilitation Center for the Blind, and the Division of Special and Technical Aids for the Blind shall be transferred to the department. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.

(5) The Department for the Blind shall establish an Advisory Council on Services for the Blind and Visually Impaired of fifteen (15) persons. There shall be statewide representation. Leaders of the known organizations of the blind shall be included. The Advisory Council on Services for the Blind and Visually Impaired shall advise the department and the executive director on matters concerning the delivery of services, the determination of priorities, the formulation of policy, the allocation of resources, the evaluation of programs, and other matters as may be referred to the council by the executive director. The Advisory Council on Services for the Blind and Visually Impaired shall be utilized by the department to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide rehabilitation services to the blind and visually impaired. A majority of the members shall be blind or visually impaired. The term of appointments shall be four (4) years except for the members first appointed: four (4) members shall be appointed for four (4) year terms; four (4) members shall be appointed for three (3) year terms; four (4) members shall be appointed for two (2) year terms; and three (3) members shall be appointed for one (1) year terms. Persons shall be eligible for reappointment; however, no person shall serve more than two (2) consecutive four (4) year terms. The Governor shall appoint the chairman from the membership of the council. The term of office for the chairman shall be two (2) years, and an appointee shall be eligible to serve more than one (1) term. No department employee shall be a member of the council. Members of the council shall serve without compensation but shall be reimbursed for actual expenses incurred in service on the council.

(6) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(7) At the close of each ***biennium*** [~~fiscal year~~], the department shall prepare a financial report and present it to the secretary of the Cabinet for Workforce Development and to the Governor. The ***biennial*** [~~annual~~] report shall be published. The ***biennial*** [~~annual~~] report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(8) The department shall coordinate its functions with other appropriate public and private agencies.

(9) The department shall perform all other duties as required of it by law.

(10) The executive director shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, physical disability, or national origin. Department employees shall receive compensation and travel expenses as allowed other employees of the Commonwealth.

(11) There shall be created under the authority of the department, to be directed by the executive director, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(12) There shall be established under the authority of the department to be directed by the executive director, a Division of Business Enterprises. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such

surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(13) There shall be established under authority of the department, to be directed by the executive director, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind.

(14) [~~There shall be established an office of support services to provide services and data required by the program divisions for proper and timely execution of their assigned responsibilities, including fiscal and personnel management; staff development and training; program planning, evaluation, and audit; affirmative action and client appeal and hearing services.~~

~~(15)~~] The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office, and other staff services as may be deemed necessary.

Section 11. The following KRS section is repealed:

163.038 Computer Services for the Blind Corporation.

SB 314, AN ACT relating to the Local Superintendents Advisory Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Local Superintendents Advisory Council, which shall consist of eleven (11) local school district superintendents appointed by the Legislative Research Commission. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010 and four (4) members shall represent the state-at-large. The members shall be appointed for a four (4) year term, except the initial appointments shall be as follows: four (4) members shall serve four (4) year terms; three (3) members shall serve two (2) year terms; and four (4) members shall serve one (1) year terms. A vacancy in the membership shall be filled by the commission for the unexpired term.

(2) The council shall advise the chief state school officer and the State Board for Elementary and Secondary Education concerning the development of administrative regulations and education policy. The chief state school officer shall submit all proposed administrative regulations and educational policies for review by the council prior to seeking approval of the State Board for Elementary and Secondary Education.

Section 2. KRS 156.029 is amended to read as follows:

(1) There is hereby established a State Board for Elementary and Secondary Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the executive director of the Council on Higher Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations***, with the advice of the Local Superintendents Advisory Council,*** by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 3. KRS 156.160 is amended to read as follows:

(1) ***With the advice of the Local Superintendents Advisory Council,*** the State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools, including procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time. The courses of study for students shall include American sign language and it shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board for Elementary and Secondary Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The ***administrative*** regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The ***administrative*** regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the State Board for Elementary and Secondary Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the State Board for Elementary and Secondary Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) At the request of a local ***board of education or a*** school council, ***a*** [~~any~~] local school district superintendent shall request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any ***school district or*** school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school ***district or school*** shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful

districts or schools shall not be subject to waiver. Any waiver granted under this subsection shall be subject to revocation upon a determination by the State Board for Elementary and Secondary Education that the school ***district or school*** holding the waiver has subsequently failed to reach its threshold level as provided for in KRS 158.6455.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

SB 343 AN ACT relating to the Interlocal Cooperation Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.230 is amended to read as follows:

As used in KRS 65.210 to 65.300, unless the context otherwise requires, "public agency" means any political subdivision of this state, any agency of the state government or of the United States, and any political subdivision of another state. It also means a state-supported ***or private*** institution of higher education and a county or independent public school district for the purposes of entering into a joint agreement to establish and operate ***a program or facility, including*** a center for child learning and study***, designed to help one (1) or more schools meet any of the goals set forth in KRS 158.6451,*** or for the investment of funds. ***If a private institution of higher education proposes to participate in an agreement pursuant to the Interlocal Cooperation Act, the Attorney General shall determine if the proposal is compatible with the United States Constitution, as part of the review of the agreement provided in KRS 65.260(2).***

SCR 81, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to conduct public hearings to review progress and receive suggestions for improving the Kentucky Education Reform Act.

WHEREAS, it is the responsibility of the General Assembly to provide an efficient system of common schools; and

WHEREAS, the Kentucky Education Reform Act was enacted to fulfill this responsibility; and

WHEREAS, the General Assembly is obligated to monitor the progress of education reform in Kentucky to insure a quality education for all students; and

WHEREAS, the citizens and educators of the Commonwealth have voiced their desire to become active participants in the reform process;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Interim Joint Committee on Education is directed to conduct public hearings during the 1994-96 interim in each congressional district to review progress in implementing the Kentucky Education Reform Act and to receive suggestions for improving education in Kentucky.

SJR 82, A JOINT RESOLUTION requesting the State Board for Elementary and Secondary Education to review the school facilities planning process.

WHEREAS, the State Board for Elementary and Secondary Education is to be commended for developing a school facilities planning process that involves the community, and facilitates informed decision making; and

WHEREAS, the revised planning process has been in place for nearly two years; and

WHEREAS, the revised process does require time and expense on the part of the school district and the community; and

WHEREAS, the state board should always seek to streamline requirements for school districts;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State Board for Elementary and Secondary Education is requested to review the school facilities planning process. Its review should include, but not be limited to:

(1) An analysis of districts who have completed their facilities planning using the revised process to determine if there are problems;

(2) A review of the requirements to find ways to decrease the time and expense involved for all districts, for those districts whose facility needs have not changed significantly since the last review, and for districts who do not have any bonding capacity; and

(3) A determination of whether there are more cost effective ways to gather the information necessary to make good facility planning decisions.

Section 2. The State Board for Elementary and Secondary Education is requested to report its findings to the Interim

Joint Committee on Education by March 15, 1995.

SCR 84, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study planning and reporting requirements for local districts and schools.

WHEREAS, there are a number of statutes and administrative regulations that require school districts to complete plans, file reports, or submit applications for funding; and

WHEREAS, strategic planning should be coordinated and serve the purpose of promoting good decision-making and responsible use of public funds; and

WHEREAS, paperwork requirements should be as minimal and as meaningful as possible; and

WHEREAS, it is timely for the General Assembly to review these requirements in light of education reform;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Interim Joint Committee on Education, through a special subcommittee organized for this purpose, shall conduct a review of all statutes, including the budget, and administrative regulations relating to planning, reporting, and applications for funding currently required of local districts and schools. The committee shall seek the advice of the State Board for Elementary and Secondary Education, the Department of Education, the Office of Education Accountability, local board members, school superintendents, school council members, teachers, parents, and professional organizations to identify unnecessary requirements and ways to coordinate productive, useful planning and reporting that assures accountability, provides necessary statewide data, and minimizes paperwork.

Section 2. The Interim Joint Committee on Education shall submit a report to the Legislative Research Commission no later than July 1, 1995. The Interim Joint Committee shall prefile a bill incorporating any recommended legislative changes prior to the 1996 Regular Session of the General Assembly.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 238, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.028 is amended to read as follows:

(1) [~~Beginning July 15, 1990,~~] There shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate*. By July, 1996, the standards for each certificate shall be framed in terms of outcomes to be demonstrated by candidates seeking certification. The standards shall identify what each category of certified professional should know and be able to do to achieve the goals established for the Commonwealth's schools pursuant to KRS 158.6451*;

(b) *Establish by July, 1996, an assessment system pursuant to Section 2 of this Act that all candidates for certification shall successfully complete to qualify for a certificate. The assessment shall include performance of tasks necessary for the specific education role for which the certification is issued;*

(c) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel*. By July, 1996, the standards shall include an evaluation of the performance of the program's candidates on assessments required for certification, the performance of candidates during internships, and other criteria related to measuring the quality of programs*;

(d)[~~(c)~~]Issue, renew, suspend, and revoke teaching certificates*. The renewal and reissuance of any certificate issued by the board after July, 1996, shall require completion of professional education experiences and an assessment*;

(e)[~~(d)~~]Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers [~~to the 1992 Regular Session of the General Assembly~~];

(f)[~~(e)~~] Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence; and

(g)[~~(f)~~] *Establish by administrative regulation* [~~Develop~~] a professional code of ethics.

(2) (a) *By July, 1996, the Education Professional Standards Board shall develop and implement a primarily*

performance-based system of teacher preparation, program approval, and certification.

(b) The Education Professional Standards Board shall adopt administrative regulations implementing the teacher internship program established pursuant to KRS 161.030, and the principal internship program established pursuant to KRS 161.027. The internship programs shall emphasize mentoring and performance assessment.

(c) The Education Professional Standards Board shall establish a schedule of fees to be paid by candidates registering to take the assessments required for certification; for applying for certification; and for the issuance, reissuance, or renewal of certificates. The board shall administer the collection of the fees and shall deposit the proceeds with the State Treasurer who shall place the money in an interest bearing revolving fund to the credit of the board. The board shall use the fund to meet the costs of developing, maintaining, and administering the assessment system required for certification, the costs of technology associated with administering the assessments, and the dissemination of certification standards and requirements to individuals, school districts, and colleges.

(3) *(a)* The board shall be composed of fifteen (15) members. The chief state school officer and the executive director of the Council on Higher Education*, or their designees,* shall serve as ex officio voting members. The Governor shall make the following thirteen (13) appointments:

1. Eight (8) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Two (2) members representative of *chief academic officers or* deans of colleges of education*, including one (1) representative from a private college or university offering an approved teacher preparation program*.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) At the first meeting held after July 1 of each year, a chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(4)~~[(3)]~~ The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, ~~[161.048, 161.049,]~~ 161.100, 161.115, 161.120, 161.124, and 161.126. ~~[Rules,]~~ Administrative regulations and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) By July, 1996, the Education Professional Standards Board shall establish and operate in cooperation with institutions of higher education offering teacher preparation programs, Kentucky Educator Certification Centers to measure the skills and proficiency of those applying for entry, professional, or advanced levels of certification as teacher; administrator; and for other non-teaching professional positions. The board shall define the expected performance outcomes and subject matter knowledge, and shall develop an assessment process to measure individual performance and knowledge of subject matter. The board shall develop procedures to ensure that the assessment instruments are valid, reliable, and free of gender and racial bias.

(2) The board shall provide for the confidentiality of the individual's assessment scores obtained in the certification center process. The scores shall be available only to the candidate, to the Education Professional Standards Board for determining the candidate's eligibility for certification and for evaluating preparation programs, and to the preparation program for the purpose of program modification and improvement.

(3) Candidates who do not meet the minimum standards established by the board may repeat the assessments and shall be informed of their strengths and weaknesses in specific areas assessed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Individuals who have been admitted to and have earned credit in an approved preparation program leading to certification by February 1, 1994, shall have up to four (4) years following the effective date of this Act to complete the program. Pursuant to KRS 161.020, those holding valid certificates on the effective date of this Act shall be subject to the terms of renewal in effect when their certificate was issued.

Section 4. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other ***professional*** school personnel ***shall be*** [~~is~~] vested in the Education Professional Standards Board. When [~~so~~] certified, teachers and other ***professional*** school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board.

(2) [~~Certificates shall be issued to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.~~

~~(3)~~] Initial certification of all new teachers shall require the successful completion of [~~appropriate written tests prior to certification. The tests shall be selected by the Education Professional Standards Board and shall measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of~~] the ***assessments,*** [~~tests~~] and ***an*** [~~the~~] approved teacher preparation program***. Applicants with less than three (3) years successful teaching experience shall receive a statement of eligibility***[~~, a certificate~~] valid for ***five (5) years*** [~~one (1) year shall be issued~~]. If an out-of-state teacher [~~with less than two (2) years experience~~] comes to Kentucky after the deadline for taking the ***assessments*** [~~written tests~~], a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the ***assessments*** [~~tests~~] if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the ***assessments*** [~~tests~~]. If the teacher fails the ***assessments*** [~~tests~~], the temporary certificate shall be valid only for the current semester.

[~~(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.~~]

(3)[~~(5)~~] ***The Education Professional Standards Board shall promulgate administrative regulations to implement an internship program for teachers.*** All new teachers, and out-of-state teachers with less than ***three (3)*** [~~two (2)~~] years of successful teaching experience ***within the preceding five (5) years,*** who are seeking [~~initial~~] certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis***,*** and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school ***that*** [~~which~~] meets the state performance standards as established in KRS 156.160 or ***that*** [~~which~~] has been accredited by a regional or national accrediting association. [~~Successful completion shall be determined by a majority vote of the beginning teacher committee.~~] The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. ***The teacher shall receive a regular teaching certificate for the one (1) year internship.*** Upon successful completion of the beginning teacher ***internship*** program, the [~~one (1) year initial teaching~~] certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(4)[~~(6)~~] The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers [~~as provided in subsection (8) of this~~

~~section~~]. The committee shall consist of a ***mentor*** [~~resource~~] teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher ***preparation program*** [~~training institution to be appointed by the president of that institution. If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations, the chief state school officer may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. In the case of a nonpublic school, if the teacher training institution is unable to provide a member to serve on the beginning teacher committee, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator~~]. The ***mentor*** [~~resource~~] teacher shall be appointed by the Department of Education from a pool of qualified ***mentor*** [~~resource~~] teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a ***mentor*** [~~resource~~] teacher in a nonpublic school, payment shall be made directly to the ***mentor*** [~~resource~~] teacher by the Department of Education. [~~Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:~~

~~(a) Teachers in the same school;~~

~~(b) Teachers in the same district; and~~

~~(c) Teachers in an adjacent school district.~~

~~The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.~~

~~(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.~~

~~(8) By contract with teacher education institutions in the Commonwealth, the chief state school officer shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the examinations as prescribed by the Education Professional Standards Board.~~]

(5)[~~(9)~~] If an applicant establishes eligibility for a ***five (5) year statement of eligibility*** [~~one (1) year certificate~~] under the provisions of subsection ***(2)***[~~(3)~~] of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible [~~for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity~~] to serve the internship for a period of ***five (5)*** [~~four (4)~~] years after establishing eligibility. If the internship is not completed within the ***five (5)*** [~~four (4)~~] year period, the applicant ***shall*** [~~must~~] reestablish eligibility by ***meeting the requirements established by the board*** [~~repeating and passing the testing program in effect for new teachers at that time.~~

~~(10) The Education Professional Standards Board shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed~~].

Section 5. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board[~~, pursuant to KRS 161.028,~~] shall by administrative regulation establish ***standards*** [~~requirements~~] for [~~a~~] preparation ***programs*** [~~program in institutions of higher education~~] for all new applicants for principal certification, and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on Higher Education shall evaluate the preparation programs for principals and maintain only those [~~institutional~~] programs that can demonstrate both the quality ***of preparation*** and the capability to ***meet state and regional need for qualified principals that will*** [~~enroll adequate numbers of students to~~] justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall ***establish*** [~~develop or select~~] appropriate ***assessments*** [~~tests~~] for applicants seeking certification as principals[~~, including:~~

~~(a) A generic test to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and~~

~~(b) A specialized examination on the current instructional and administrative practices in Kentucky public education~~].

(4) [~~The Education Professional Standards Board shall establish the minimum score for successful completion of examinations and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the tests. The Education Professional Standards Board shall provide for confidentiality of examination scores.~~

~~(5)~~] The Education Professional Standards Board shall ***implement*** [~~develop~~] an internship program ***that provides*** [~~which shall provide~~] for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ***five (5)*** [~~ten (10)~~] year period prior to making application, at least two (2) years of successful experience as a principal ***of*** [~~in~~] a school [~~situation~~]. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

[~~(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section.~~]

(5)[~~(7)~~] Upon successful completion of the approved preparation program and the ***assessments*** [~~examinations~~], ***the Education Professional Standards Board*** [~~the chief state school officer~~] shall issue to the applicant a statement of eligibility for internship valid for ***five (5)*** [~~four (4)~~] years. If the applicant does not participate in an internship program within the ***five (5)*** [~~four (4)~~] year period, the applicant shall reestablish eligibility by repeating and passing the ***assessments*** [~~examinations~~] in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position. ***At the request of the employing school district, an out-of-state applicant who comes to Kentucky after the deadline for taking the prescribed examinations may be issued a temporary six (6) month statement of eligibility or certificate, if the applicant meets all other requirements for certification as principal. The applicant shall take and pass the assessments during the six (6) month period.***

(6)[~~(8)~~] All applicants for principal certification, after successfully completing the ***assessments*** [~~examinations~~], shall successfully complete the internship program described in subsection ***(4)***[~~(5)~~] of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations ***of*** [~~developed by~~] the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(7)[~~(9)~~] Following successful completion of the internship program, the principal's certificate shall be extended for ***five (5)*** [~~four (4)~~] years. Renewal of the certificate shall require the completion of a continuing ***professional*** education requirement as prescribed by the Education Professional Standards Board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

The Education Professional Standards Board, in consultation with the Council on Higher Education and the State Board for Elementary and Secondary Education, shall establish alternative certification programs aligned with the goals for the schools of the Commonwealth pursuant to KRS 158.6451. The following practices shall be adhered to in establishing alternative certification programs:

(1) Practicing educators and those outside the profession may obtain certification as a teacher, administrator, or non-teaching professional through completion of an alternative program and assessment through the Kentucky Education Certification Center process or by successful completion of the Kentucky Education Certification Center process alone. An alternative program shall not be designed to last longer than eighteen (18) months;

(2) Persons shall be admitted to alternative certification programs on the basis of at least an earned baccalaureate degree and skills demonstrated by performance outcome measurements;

(3) A significant portion of each alternative certification program shall be conducted at established clinical training and development sites;

(4) Persons completing alternative certification programs shall be evaluated at a Kentucky Educator Certification Center, and shall be expected to meet the same performance and knowledge criteria as those completing a traditional preparation program;

(5) The Education Professional Standards Board shall devise a plan to encourage selected university involvement in alternative certification. Alternative certification programs shall either be operated by colleges or universities or by successful school districts pursuant to KRS 158.6455 that include significant involvement of higher education in their development and implementation. Establishment of an alternative certification program shall be contingent upon approval by the Education Professional Standards Board; and

(6) Persons enrolled in alternative certification programs may be employed by school districts under the supervision of

certified personnel.

Section 7. KRS 157.390 is amended to read as follows:

(1) (a) ***1. Effective until June 30, 1998,*** the chief state school officer, under administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers ***holding a valid certificate or enrolled in an approved teacher preparation program on the effective date of this Act*** in rank as follows:

a. Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the ~~[State Board for Elementary and Secondary]~~ Education ***Professional Standards Board*** or equivalent preparation and who have earned thirty (30) semester hours of approved graduate work or its equivalent, and those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work.

b. Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the ~~[State Board for Elementary and Secondary]~~ Education ***Professional Standards Board*** or equivalent preparation.

c. Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

d. Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

e. Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

2. Beginning July 1, 1996, the chief state school officer, under administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers completing the performance-based teacher preparation and certification process pursuant to Section 1 of this Act in rank as follows:

a. Rank I. Those holding an advanced certificate in accordance with administrative regulations promulgated by the Education Professional Standards Board that shall include completion of an individual professional development program. The individual professional development program may include a doctoral degree.

b. Rank II. Those holding a professional certificate in accordance with administrative regulations promulgated by the Education Professional Standards Board that shall include completion of an individual professional development program. The individual professional development program may include a master's degree.

c. Rank III. Those holding a provisional certificate in accordance with administrative regulations promulgated by the Education Professional Standards Board, which shall include the bachelor's degree.

d. Rank IV. Those holding certificates in accordance with administrative regulations promulgated by the Education Professional Standards Board who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

e. Rank V. Those holding certificates in accordance with administrative regulations promulgated by the Education Professional Standards Board who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(b) ***The Education Professional Standards Board*** ~~[In determining ranks, the chief state school officer, under administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit. The chief state school officer]~~, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(c) Nothing in this subsection shall allow the State Board for Elementary and Secondary Education by ***administrative*** regulation to reclassify downward any teachers currently in Ranks I or II.

(2) The chief state school officer, under administrative regulations of the State Board for Elementary and Secondary Education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:

1. Zero (0) to three (3) years;
2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;
4. Fifteen (15) to nineteen (19) years; and

5. Twenty (20) or more years.

(3) [~~(a)~~] The rank and experience of the teacher shall be determined on September 15.

[~~(b) The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section.~~

~~(4) The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.~~

~~(5) The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.~~

~~(6) The total amount of money distributable to each district from the public school fund shall be the sum of the allotments in subsections (3), (4), and (5) of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6).~~]

(4)[~~(7)~~] The State Board for Elementary and Secondary Education shall create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally-recognized factors which the board considers relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the State Board for Elementary and Secondary Education, the new plan, and its fiscal impact shall be submitted to the General Assembly.

Section 8. KRS 156.105 is amended to read as follows:

(1) Prior to July 1, 1992, the Department of Education shall establish a Principals Assessment Center, which shall consist of the National Association of Secondary School Principals assessment process or a similar validated process. The department may operate assessment centers regionally and shall provide for assessor training.

(2) In addition to any applicable certification and experience requirements, to be qualified and eligible for initial or continued employment as a school principal, effective July 1, 1994, the principal or applicant shall have successfully completed the assessment center process. A newly hired principal who is relocating from outside the state to begin his duties after June 30, 1994, shall successfully complete the assessment center process within one (1) year of assuming his duties as principal.

(3) The State Board for Elementary and Secondary Education shall adopt administrative regulations to establish the criteria for successful completion of the assessment center process.

(4) All principals hired prior to July 13, 1990, shall be required to successfully complete the beginning teacher committee training program, pursuant to KRS 161.030[~~(8)~~] by July 1, 1991. All principals hired after July 13, 1990, shall be required to complete the beginning teacher committee training program pursuant to KRS 161.030[~~(8)~~] within one (1) year after their appointment.

Section 9. The following KRS sections are repealed:

161.048 Alternative certification program -- Testing and eligibility requirements.

161.049 Professional support teams -- Training program -- Alternate training program.

The Committee Amendment No. 1 to **SB 238** is as follows:

On page 18, line 19 after "Section 9." by inserting the following:

"KRS 156.160 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) *1.* Courses of study for the different grades and kinds of common schools, including procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time.

2. The courses of study for students shall include American sign language and it shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

3. The courses of study shall not include teaching about alternative lifestyles that promote or condone deviant sexual behavior including but, not limited to, the practice of sodomy.

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board for Elementary and Secondary Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the State Board for Elementary and Secondary Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the State Board for Elementary and Secondary Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) At the request of a local school council, any local school district superintendent shall request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful schools shall not be subject to waiver. Any waiver granted under this subsection shall be subject to revocation upon a determination by the State Board for Elementary and Secondary Education that the school holding the waiver has subsequently failed to reach its threshold level as provided for in KRS 158.6455.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

Section 10.".

The Committee Amendment No. 2 to **SB 238** is as follows:

On page 5, line 21, after "***program.***", by inserting "***Individuals who have a certificate for vocational education for the industrial education, health and personal services occupations, and technical education areas may complete their requirements in accordance with the administrative regulations in effect on the effective date of this Act.***";

On page 15, line 24, after "***degree***", by adding "***or the equivalent***".

The Committee Amendment No. 3 to **SB 238** is as follows:

On page 1, lines 21 and 22, by deleting "***The renewal and reissuance of***" and by capitalizing the initial letter of "***any***" on line 22; and

On page 5, line 5, after "***matter***", by adding "***for entry, professional, and advanced degrees. The Certification Center process shall validate what an applicant knows and is able to do relative to the approved standards for a role. This process shall require submission of examples of actual performance of work in the role over time, of work in the role demonstrated at the center, and of the expertise level of the applicant in the subject matter required for the role***"; and

On page 5, line 20, after "***by***", by changing "***February 1, 1994***" to "***May 31, 1995***"; and

On page 5, line 23, by deleting "***of renewal***"; and

On page 14, line 7, after "the", by placing a "[" and by placing a "]" after "Secondary" on line 8, and striking through the intervening language; and

On page 14, line 8, after "Education", by adding "***Professional Standards Board***"; and

On page 15, lines 5 and 6, by deleting "***State Board for Elementary and Secondary***"; and

On page 15, lines 6, after "***Education***", by adding "***Professional Standards Board***"; and

On page 15, line 12, after "***program***", by adding "***which shall be developed by the individual professional under the direction of the board***"; and

On page 15, line 18, after "***program***" by adding "***which shall be developed by the individual professional under the direction of the board***"; and

On page 16, line 15, after "the", by placing a "[", and on line 16, after "Secondary" by placing a "]", and striking through the intervening language, and by adding "***Professional Standards Board***" after the word "Education" on line 16.

The Committee Amendment No. 4 to **SB 238** is as follows:

On page 18, line 19 by inserting after "Section 9." the following:

"KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year***, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6)***. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

(c) Transportation costs. The per pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and

instrumental music, and physical education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the State Board for Elementary and Secondary Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the State Board for Elementary and Secondary Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the State Board for Elementary and Secondary Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Office of

Vocational Education in the Department of Education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding excluding the capital outlay, shall be allotted for each child in average daily attendance in the current school year who has been properly identified according to State Board for Elementary and Secondary Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 10.".

The Committee on Natural Resources and Environment reported **SB 214** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 214, AN ACT relating to coal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The cabinet shall notify the secretary of the Transportation Cabinet every six (6) months of permits issued for mine openings, and mine closings under the authority of the cabinet.

Section 2. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department.

(2) He shall appoint a deputy commissioner of the Department of Mines and Minerals, prescribe his powers and duties.

(3) He may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.

(4) He may, whenever he deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one district to another.

(5) He shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) He shall collect statistics relating to coal and clay mining in the state and make an annual report of such statistics.

(7) He shall see that maps, plans, projections and proposed developments of all underground coal and clay mines are made

and filed in his office.

(8) He shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) He shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods and may conduct demonstrations in safety whenever he deems it advisable.

(10) He shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) He may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The commissioner shall have the power and authority to ***promulgate*** [~~adopt~~], amend, or rescind ***any administrative*** [~~such rules,~~] regulations[~~, and standards as~~] he deems necessary and suitable for the proper administration of this chapter. ***Administrative*** [~~Rules,~~] regulations[~~, and standards~~] may be ***promulgated*** [~~adopted~~], amended, or rescinded by the commissioner only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. ***Administrative*** [~~Such Rules,~~] regulations[~~, and standards~~] so ***promulgated*** [~~adopted~~] shall carry the full force and effect of law. [~~This provision shall not be applicable to rules, regulations, and standards in effect on June 16, 1972.~~]

(14) The commissioner shall report to the secretary of the Transportation Cabinet every six (6) months on permits issued for mine openings, and mine closings under his authority.

Section 3. KRS 352.420 is amended to read as follows:

(1) The operator or superintendent of each mine shall give the commissioner at least ten (10) days' notice of the following:

- (a) Abandonment of a mine;
- (b) Resumption of work in a mine after an abandonment or discontinuance for a period of two (2) weeks or more;
- (c) Change in the operator or name of a mine.

(2) Each mine shall be inspected and approved by the department before operations are resumed after an abandonment or discontinuance for two (2) weeks or more.

(3) The operator or superintendent of a mine shall notify the commissioner every six (6) months of a mine opening, and a mine closing under his authority.

Section 4. KRS 42.470 is amended to read as follows:

Moneys in the local government economic assistance fund shall be allocated among the counties as follows:

(1) Funds allocated under KRS 42.4585;

- (a) Sixty percent (60%) shall be distributed to each coal producing county on the basis of the ratio of tax collected on coal severed in each respective county to the tax collected statewide.
- (b) Thirty percent (30%) shall be distributed to each coal producing county on the basis of per capita income (inverse order), ton miles of resource roads and population, equally weighted.
- (c) Ten percent (10%) shall be distributed to non-coal producing counties impacted by the transport of coal on the basis of geographic area, ton miles of resource roads, and per capita income (inverse order), weighted on a basis of 30/100, 40/100, and 30/100, respectively. The expenditure of such funds shall be limited to the categories of projects set out in KRS 42.455 (2)(c). ***All counties shall receive an annual payment based on the average of total ton miles within the county during the most recent three (3) year period.*** To qualify for the funds distributed under the provisions of this paragraph, a county must have within its geographic boundaries ***in any single year*** twenty-five hundredths of one percent (0.25%) of the total ton miles within coal impact counties ***during the most recent three (3) year period***.

(2) All funds allocated under KRS 42.450(2) shall be distributed among the mineral producing counties on the basis of the tax collected on minerals severed in each respective county.

Section 5. KRS 177.977 is amended to read as follows:

(1) The Transportation Cabinet shall publish a directory, including supporting maps and other documents, designating the official coal road system in coal impact and coal producing counties which shall include all public highways, roads, bridges***,*** and streets over which quantities of coal sufficient to significantly affect the condition and state of repair of such highways, roads, bridges***,*** and streets have been transported in the immediately preceding year. The cabinet shall further publish the total county mileage of the official coal road system and the total ton-miles within each coal impact and coal producing county for said preceding year.

(2) Every person, producer or processor shipping or transporting coal over the public highways, roads, bridges, and streets, shall file with the Transportation Cabinet ~~[such]~~ information ~~[and]~~ at ~~[such]~~ intervals as the cabinet shall designate by ***administrative*** regulation ***promulgated pursuant to KRS Chapter 13A,*** ~~[duly adopted]~~ for the purpose of identifying those highways, roads, and streets comprising the coal road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton-miles within each coal impact and coal producing county. A copy of the information furnished to the Natural Resources and Environmental Protection Cabinet pursuant to the ***provisions of Section 1 of this Act and a copy of the information furnished to the Department of Mines and Minerals pursuant to the provisions of Sections 2 and 3 of this Act shall*** ~~[permitting requirements of KRS Chapter 350 regarding public road transportation plan may, subject to its approval,]~~ be submitted to the Transportation Cabinet to satisfy the reporting requirements of this subsection and ***the*** ~~[such]~~ transportation plan shall be annually updated to reflect in route changes.

Calendar

HR 106, SB 287, SB 316, SB 351, HR 97, SB 195, SJR 68, SCR 86, SB 307, SB 320 and **HCR 108** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 247**, by Representative Moberly:

On page 7, line 17, after "***textbooks***", by inserting "***used in schools without councils***".

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 133**, by Representative B. Smith:

By amending the title to read as follows:
"AN ACT relating to education."

Floor Amendment No. 1 to **SB 133**, by Representative B. Smith:

On page 3, after line 24, by adding the following:

"Section 2. KRS 158.6453 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. ***The assessment program shall not include more than one (1) portfolio at the fourth grade level that shall be writing and there shall be a math portfolio required for the sixth grade.*** The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;

(b) Direct the development of the interim and full-scale assessment program; and

(c) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress.

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations."

Floor Amendment No. 1 to **SB 316**, by Representative LeMaster:

On page 1, line 3, By deleting "***A policy***" and inserting in lieu thereof "***Except for jails, a policy***".

Floor Amendment No. 4 to **SB 92**, by Representative B. Smith:

On page 13, line 24, after "Section 5.", by adding the following:

"KRS 158.6453 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. ***The assessment program shall not include more than one (1) portfolio at the fourth grade level that shall be writing and there shall be a math portfolio required for the sixth grade.*** The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;

(b) Direct the development of the interim and full-scale assessment program; and

(c) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress.

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations.

Section 6."; and

On page 17, line 2, after "Section", by changing "6" to "7".

Floor Title Amendment to **SB 92**, by Representative B. Smith:

By amending the title to read as follows:

"AN ACT relating to education and declaring an emergency."

Floor Amendment No. 2 to **SB 205**, by Representative Mason:

On page 1, line 6, after the word "***mental***" and before the word "***which***", delete the word "***infirmities***" and insert the word "***disability***"; and

On page 3, line 11, after subsection (5) insert "***A person who has been adjudicated to be mentally incompetent***" and insert an opening bracket "[" before the word "An", and insert a closing bracket "]" on line 20 after the semicolon ";" and strike through all the intervening text"; and

On page 3, line 21, before the subsection number, insert "*(6)*" and place an opening bracket "[" before and a closing bracket "]" after the number "(8)" and strike through the number "(8)"; and

On page 3, line 23, before the subsection number, insert "*(7)*" and place an opening bracket "[" before and a closing bracket "]" after the number "(9)" and strike through the number "(9)"; and

On page 3, line 25, before the subsection number, insert "*(8)*" and place an opening bracket "[" before and a closing bracket "]" after the number "(10)" and strike through the number "(10)"; and

On page 3, line 27, before the subsection number, insert "*(9)*" and place an opening bracket "[" before and a closing bracket "]" after the number "(11)" and strike through the number "(11)"; and

On page 4, line 2, before the subsection number, insert "*(10)*" and place an opening bracket "[" before and a closing bracket "]" after the number "(12)" and strike through the number "(12)"; and

On page 4, line 3, delete subsection "*(13)*" and insert in lieu thereof "*(11)*".

Floor Amendment No. 1 to **SB 351**, by Representative Stengel:

On page 2, line 7, after the word "***disclosure***" and before the "." add the following language: "***except when produced pursuant to a properly executed subpoena or court order***".

Orders of the Day

SB 201 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **SB 201** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 23 , 1994 roll call on **SB 201** - Appendix)

SB 201 was passed and the title agreed to.

Representative Rapier moved that the vote by which **SB 201** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 281, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to **SB 281**. Agreed.

Representative Rapier moved that **SB 281**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 23, 1994 roll call on **SB 281** - Appendix)

SB 281, by way of Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which **SB 281**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 267 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **SB 267** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 23 , 1994 roll call on **SB 267** - Appendix)

SB 267 was passed and the title agreed to.

Representative Rapier moved that the vote by which **SB 267** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 45, SB 75, SB 140, SB 148, SB 158, SB 187, SB 208** and **SB 249** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:30 p.m.)

Orders of the Day (Continued)

SB 175 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **SB 175** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 23 , 1994 roll call on **SB 175** - Appendix)

SB 175 was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 33 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 33** be adopted.

On the roll call the vote was: Yeas 84, Nays 0. (See March 23, 1994 roll call on **HCR 33** - Appendix)

HCR 33 was adopted.

Representative Morris moved that the vote by which **HCR 33** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 42 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 42** be adopted.

On the roll call the vote was: Yeas 64, Nays 10. (See March 23, 1994 roll call on **HCR 42** - Appendix)

HCR 42 was adopted.

Representative Morris moved that the vote by which **HCR 42** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 95 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 95** be adopted.

On the roll call the vote was: Yeas 81, Nays 0. (See March 23, 1994 roll call on **HCR 95** - Appendix)

HCR 95 was adopted.

Representative Morris moved that the vote by which **HCR 95** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 43, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute to **SB 43**. Agreed.

Representative Bowling moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 43**. Agreed.

Representative Bowling moved that **SB 43**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 23, 1994 roll call on **SB 43** - Appendix)

SB 43, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 43**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 193, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 193** be passed.

On the roll call the vote was: Yeas 94, Nays 3. (See March 23 , 1994 roll call on **SB 193** - Appendix)

SB 193 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 193** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 96 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 96** be adopted.

On the roll call the vote was: Yeas 75, Nays 18. (See March 23, 1994 roll call on **HCR 96** - Appendix)

HCR 96 was adopted.

Representative Morris moved that the vote by which **HCR 96** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 180**, by Representative Gedling:

On page 3, after line 16, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

"*As used in Sections 2 to 9 of this Act unless the context otherwise requires:*

(1) "Department" means the Department of Agriculture;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without the Commonwealth;

(3) "Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid;

(4) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(5) "Sub-jobber" means any person who purchases cigarettes on which the Kentucky cigarette tax has been paid from a wholesaler licensed pursuant to KRS 138.195 and makes the cigarettes available to a retailer for resale; and

(6) "Tobacco product" means any product that contains tobacco and is intended for human consumption.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Sub-jobbers who provide tobacco products to retailers shall report the name and address of each retailer to the department or its agent in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each person engaged in the business of selling tobacco products at retail shall notify each individual employed by that person as a retail sales clerk of the following requirements of the laws of the Commonwealth:

(a) The sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited by law; and

(b) Proof of age shall be demanded from a prospective purchaser of a tobacco product if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of the effective date of this section. The person shall signify receipt of the notice required by this section by signing a form that states as follows: "I understand that the law of the Commonwealth of Kentucky prohibits the sale of tobacco products to persons under the age of eighteen (18) years, and requires that proof of age be demanded from a prospective purchaser of tobacco products if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years. I promise, as a condition of employment, to observe this law."

(3) Any person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the department using a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The department shall enforce KRS 438.045 and KRS 365.395 in a manner that may reasonably be expected to reduce the extent to which tobacco products are sold or distributed to persons under the age of eighteen (18) years, regardless of

whether the products are sold at retail, over the counter, or through vending machines, and shall annually conduct random, unannounced inspections of locations where tobacco products are sold or distributed to ensure compliance with KRS 438.045 and KRS 365.395. The inspections shall be conducted in those locations where, and at times when, persons under the age of eighteen (18) years are most likely to attempt to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with KRS 438.045 and KRS 365.395 only if the testing is conducted under the direct supervision of the department, a sheriff, or a chief of police, or their employees, and written parental consent has been obtained. The enforcement division of the department shall prepare annually for submission by the Governor to the Secretary of the United States Department of Health and Human Services the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Fines collected pursuant to KRS 438.045, KRS 365.395, and Section 4 of this Act, shall be used to offset the costs of enforcement of KRS 438.045, KRS 365.395, and Section 4 of this Act.

Section 7. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18) ***years***, or knowingly solicit any person under the age of eighteen (18) ***years*** to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under ***the*** age eighteen (18) ***years***.

(3) ***Any person who sells tobacco products at retail shall ask the prospective purchaser for proof of age if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.***

(4) A person who violates subsection (1)***,*** [~~or~~] (2)***, or (3)*** of this section shall be subject to a fine of not less than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] nor more than ***two hundred*** fifty dollars ***($250)***($50) for ***each***[~~a first~~] violation [~~and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation~~].

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that KRS 438.045, KRS 365.395, and Section 4 of this Act shall be enforced in an equitable and uniform manner throughout the Commonwealth. For the purpose of equitable and uniform enforcement, the provisions of Sections 2 to 9 of this Act shall supersede any existing or subsequently enacted local law, ordinance, or administrative regulation which relates to the use, sale, or distribution of tobacco products. It is the intent of the General Assembly that Sections 2 to 9 of this Act be enforced so as to ensure the eligibility for and receipt of any federal funds or grants that the Commonwealth of Kentucky now receives or may receive relating to the provisions of Sections 2 to 9 of this Act.

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or ***other*** tobacco products may ***distribute***[~~provide~~] cigarettes or ***other*** tobacco products or samples thereof [~~free of charge~~] to any person under the age of eighteen (18) ***years; however, it shall not be unlawful to distribute cigarettes or other tobacco products to a family member or a personal acquaintance for noncommercial purposes, or to an employee when required in the performance of the employee's duties.***

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred***[~~twenty-five~~] dollars ***($100)***[~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)***[~~($100)~~] for each offense. ***The fine shall be administered by the department or its agent using a civil enforcement procedure.***".

Floor Amendment No. 1 to **SB 266**, by Representative Deskins:

Beginning on page 1 by deleting all language after the enacting clause to the end of the bill and inserting the following:

"Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local

government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate

knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(14).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

SECTION 2. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may issue a permit under this chapter authorizing the disposal of coal combustion by-products at surface coal mining operations.

(2) This section shall apply to the disposal of waste from burning clean oil or gas with coal, if the oil or gas is used only for startup or flame stabilization. This section shall not apply to disposal of coal combustion by-products for which a special waste formal permit or a special waste registered permit-by-rule is required under administrative regulations promulgated pursuant to KRS Chapter 224. This section shall also not apply to disposal of coal combustion by-products that have been mixed or otherwise co-managed with low volume waste or with materials that exhibit hazardous waste characteristics. This section shall also not apply to coal combustion by-products generated prior to the effective date of this Act unless the applicant can demonstrate to the satisfaction of the cabinet that these coal combustion by-products have not been mixed or otherwise co-managed with low volume waste or with materials that exhibit hazardous waste characteristics. This section shall also not apply to underground injection of coal combustion by-products.

(3) An application to modify an existing permit to initially include disposal of coal combustion by-products shall be an application for a major revision or an amendment under KRS 350.070.

(4) An application under this section to modify an existing permit issued under this chapter that includes coal combustion by-product disposal pursuant to a permit issued under KRS Chapter 224, where the application proposes disposal of the same coal combustion by-products in the same locations as approved in these existing permits in a manner consistent with the disposal requirements of this section, may be made by application for a minor revision.

(5) An application to modify an existing permit to increase the amount of coal combustion by-products to be received, to change the components of the coal combustion by-products, or to change the generating facility, may be an application for a minor revision. However, if the cabinet determines that the scope and nature of the proposed change will have the effect of increasing the concentrations of heavy metals, or is such that public notice is necessary to allow participation in the cabinet's decision by persons who have an interest which may be adversely affected by the proposed change, the change shall be made by application for a major revision.

(6) The permittee shall keep accurate records, which shall be made available to the cabinet upon request, showing the source and amount of each shipment of coal combustion by-products that is received.

(7) Prior to disposal of the coal combustion by-products, any material that is not the coal combustion by-products approved for disposal shall be removed from the coal combustion by-products. A record shall be kept of the removed material and its disposition, and this record shall be available at the minesite for examination by the cabinet.

(8) Coal combustion by-products shall be disposed of only in the pit or extraction area from which coal has been removed by surface mining activities; except that coal combustion by-products may be disposed of in areas within the permit area other than coal extraction areas if the applicant demonstrates to the satisfaction of the cabinet, based upon site specific conditions and the characteristics of the coal combustion by-products, that no adverse environmental impacts will occur.

(9) No component of the coal combustion by-products to be disposed of shall be listed or meet the criteria of a hazardous waste in the cabinet's administrative regulations promulgated pursuant to KRS Chapter 224 and the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended.

(10) The permittee shall prepare and maintain accurate maps, which shall be made available to the cabinet upon request,

showing each location where coal combustion by-products have been disposed of under this section and the volume of coal combustion by-products disposed of at that location. Phase I bond release shall not be granted for an area containing coal combustion by-products unless the permittee has submitted to the cabinet accurate maps showing the locations and volumes of the coal combustion by-products disposed of under this section.

(11) If requested by the cabinet, or if required by the issued permit, the applicant or permittee shall provide representative samples of the coal combustion by-products to the cabinet in a manner satisfactory to the cabinet.

(12) The permittee shall annually obtain and submit to the cabinet, a laboratory analysis to characterize the coal combustion by-products in the manner required under the cabinet's administrative regulations promulgated pursuant to KRS Chapter 224 and the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended.

(13) If the disposal of coal combustion by-products is proposed, any newspaper advertisements required under KRS 350.055 shall also state that the applicant proposes to dispose of coal combustion by-products in the permit area and shall state the location, business name, and mailing address of the facility that will generate the coal combustion by-products.

(14) The application shall demonstrate that the applicant has the legal right to dispose of coal combustion by-products on the proposed disposal areas. The application shall include a copy of the conveyance that grants or reserves the right to dispose of waste materials such as coal combustion by-products. If the mineral estate has been severed from the surface estate, the application shall include the written consent of the surface owner for the disposal of coal combustion by-products or a copy of the conveyance that expressly grants or reserves the right to dispose of coal combustion by-products.

(15) The application shall state:

(a) The location, business name, mailing address, and telephone number of the facility that will generate the coal combustion by-products, and the name and title of the responsible official of the generating facility who may be contacted regarding the coal combustion by-products;

(b) Each of the component materials, fly ash, bottom ash, scrubber sludge, or fluidized bed combustion waste that the coal combustion by-products will contain; and

(c) The approximate volume in cubic yards, and the approximate tonnage, of coal combustion by-products that will be received from the generating facility annually and for the term of the permit.

(16) The application shall include the results of representative sampling and laboratory analysis of each component of the coal combustion by-products for contaminants listed in the cabinet's administrative regulations promulgated pursuant to KRS Chapter 224 and the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended, using analytical testing methods performed in accordance with those administrative regulations. The analysis for metals shall include aluminum, antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, molybdenum, nickel, selenium, mercury, silver, thallium, vanadium, and zinc. The analysis shall also include the neutralization potential and potential acidity. The application shall demonstrate that each component of the coal combustion by-products shall not contain any contaminant at a concentration that equals or exceeds the regulatory level set forth in the cabinet's administrative regulations promulgated pursuant to KRS Chapter 224 and the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended.

(17) The application shall describe the proposed methods of coal combustion by-product handling and disposal, including methods of record keeping.

(18) The application shall include appropriate maps and drawings of all areas and facilities to be used in the permit area for coal combustion by-product handling and disposal.

(19) Each application for disposal of coal combustion by-products shall contain a determination of the probable hydrologic consequences of the disposal of coal combustion by-products for the permit and adjacent area and shall include a description of the measures to be taken to assure that the disposal will not pose a threat to human health or the environment, to minimize disturbances to the hydrologic balance within the permit area and adjacent area, and to prevent material damage to the hydrologic balance outside the permit area. The description shall be based on the baseline hydrologic, geologic, and other information required under this chapter and shall identify the protective measures to be taken to meet the requirements of this chapter or demonstrate to the satisfaction of the cabinet that protective measures are not necessary for the operation to meet the requirements, considering the characteristics and volume of the coal combustion by-products and the hydrogeologic characteristics of the site determined from the baseline hydrologic, geologic, and other information required under this chapter. The application shall describe the measures to be taken to prevent coal combustion by-products from becoming airborne.

(20) The application shall include baseline data to characterize the quality of ground water and surface water in areas that may be affected by disposal of coal combustion by-products.

(21) Surface water and ground water baseline data collection and monitoring stations shall be established, as appropriate, to satisfy the requirements of this chapter. In determining the acceptable number and locations of

monitoring wells, the cabinet shall recognize the distinct differences between disposal of coal combustion by-products under this section and the disposal of coal combustion by-products for which a special waste formal permit or a special waste registered permit-by-rule is required under administrative regulations promulgated pursuant to KRS Chapter 224.

(22) The characterization of ground water shall include the parameters of total dissolved solids, or specific conductance corrected to twenty-five (25) degrees Celsius; pH; dissolved iron; dissolved manganese; acidity; alkalinity; sulfate; arsenic; barium; cadmium; chromium; lead; mercury; selenium; and silver; except the cabinet may require different parameters for an application based upon the demonstrated characteristics of the coal combustion by-products.

(23) The characterization of surface water shall include the parameters of total dissolved solids, or specific conductance corrected to twenty-five (25) degrees Celsius; total suspended solids; pH; total iron; total manganese; acidity; alkalinity; sulfate; arsenic; barium; cadmium; chromium; lead; mercury; selenium; and silver; except the cabinet may require different parameters for an application based upon the demonstrated characteristics of the coal combustion by-products.

(24) The minimum number of sampling events for baseline characterization of ground water and surface water for parameters beyond those normally required for surface coal mining operations shall be in accordance with cabinet administrative regulations promulgated pursuant to KRS Chapter 224 pertaining to special waste landfills used solely for the disposal of coal combustion by-products.

(25) The application shall include a plan for the monitoring and reporting, until final bond release on the permit area, of the quality of ground water and surface water in areas that may be affected by disposal of coal combustion by-products and shall provide for monitoring capable of detecting if contaminants from the coal combustion by-products are entering ground water and surface water.

(26) The performance bond required under this chapter shall cover the disposal of coal combustion by-products on the permit area.

(27) A permittee, operator, or person disposing of coal combustion by-products under this section shall comply with the following additional environmental protection performance standards:

(a) The coal combustion by-products shall be handled and disposed by the method approved in the permit.

(b) Disposal areas and facilities used for coal combustion by-products handling and disposal shall be designed, located, operated, and maintained to assure that the handling and disposal will not pose a threat to human health or the environment, to minimize disturbances to the hydrologic balance within the permit area and adjacent area, and to prevent material damage to the hydrologic balance outside the permit area, as required under this chapter.

(c) To the extent practicable, areas to receive coal combustion by-products shall be selected to minimize water contact with the coal combustion by-products.

(d) The coal combustion by-products shall be placed at least four (4) feet above the seasonal high water table that is projected to be established after completion of mining and reclamation, unless the applicant demonstrates to the satisfaction of the cabinet, based upon site specific conditions and the characteristics of the coal combustion by-products, that no adverse environmental impacts will occur.

(e) The coal combustion by-products shall not be placed within four (4) feet horizontally of a final highwall, exposed coal seam, or coal outcrop.

(f) The volume of coal combustion by-products disposed of on the permit area shall not exceed the in-place volume of the marketable coal seams to be removed from the permit area.

(g) Disposal of coal combustion by-products shall not result in a greater amount of excess spoil than the amount that would result if disposal of coal combustion by-products were not part of the permitted operation.

(h) The thickness of coal combustion by-products at any point in any disposal area shall not exceed forty (40) feet.

(i) The cabinet may reduce the allowable maximum volume or thickness of coal combustion by-products for a disposal area if the cabinet determines, based upon site specific conditions and the characteristics of the coal combustion by-products, that the reduction in volume or thickness is necessary to assure protection of human health and the environment.

(j) After the coal combustion by-products are placed in the disposal area, they shall be covered as contemporaneously as practicable with at least four (4) feet of nonacid-forming spoil material.

(28) The permittee shall monitor and report the quality of surface and ground water quarterly, except the monitoring of water quality parameters beyond those normally required for surface coal mining operations shall be conducted semiannually. The monitoring shall be conducted until final bond release on the permit area; except after four (4) initial monitoring events for the parameters beyond those normally required for surface coal mining operations, if

analysis of subsequent monitoring events indicates no exceedences above maximum contaminant levels under cabinet administrative regulations promulgated pursuant to KRS Chapter 224 and the Safe Drinking Water Act of 1974 (Public Law 93-523), as amended, the permittee may, upon request, be granted permission from the cabinet to reduce monitoring parameters required under this chapter. The monitoring and reporting shall comply with the plan approved pursuant to subsection (25) of this section.

(29) The monitoring and reporting of ground water quality shall include the parameters used in the baseline characterization of ground water under subsection (22) of this section, except the cabinet may require different parameters for a permit based upon the demonstrated characteristics of the coal combustion by-products.

(30) The monitoring and reporting of surface water quality shall include the parameters used in the baseline characterization of surface water under subsection (23) of this section, except the cabinet may require different parameters for a permit based upon the demonstrated characteristics of the coal combustion by-products.

(31) The cabinet shall, upon the effective date of this Act, process applications submitted under this section in the same manner as other permit applications submitted under this chapter.

(32) The cabinet may promulgate administrative regulations under this section pertaining to the disposal of coal combustion by-products."

Orders of the Day (Continued)

SB 241 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **SB 241** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 23 , 1994 roll call on **SB 241** - Appendix)

SB 241 was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 241** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 177 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 177** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 23 , 1994 roll call on **SB 177** - Appendix)

SB 177 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 177** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 234, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Committee Amendment No. 1 to **SB 234**. Agreed.

Representative Arnold moved that **SB 234**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 5. (See March 23, 1994 roll call on **SB 234** - Appendix)

SB 234, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **SB 234**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 154**, by Representative Gedling:

On page 1, by amending the title to read as follows:

"AN ACT relating to marketing of agricultural products".

Floor Amendment No. 6 to **SB 136**, by Representative Johnson:

On page 3, below line 27, to insert the following:

Section 2. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) ***"Abortion facility" means any place in which an abortion is performed.***

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(3)[~~(2)~~] "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(4)[~~(3)~~] "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(5)[~~(4)~~] "Cabinet" means the Cabinet for Human Resources.

(6)[~~(5)~~] "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(7)[~~(6)~~] "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning July 15, 1990, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(8)[~~(7)~~] "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter.

(9)[~~(8)~~] "Commission" means the Commission for Health Economics Control in Kentucky.

(10)[~~(9)~~] "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.

(11)[~~(10)~~] "Formal review process" means the ninety (90) day certificate of need review conducted by the commission.

(12)[~~(11)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ***abortion facilities,*** ambulance services, nonemergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(13)[~~(12)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(14)[~~(13)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum, except that the term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning July 15, 1990, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included.

(15)[~~(14)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(16)[~~(15)~~] "Nonclinically related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices.

(17)[~~(16)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(18)[~~(17)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state.

(19)[~~(18)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet or the commission;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet or the commission regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet or the commission;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the commission or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the commission.

(20)[~~(19)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(21)[~~(20)~~] "State health plan" means the document prepared triennially, updated annually, and duly adopted by the state health planning council and approved by the Governor.

(22)[~~(21)~~] "State Health Planning Council" means the Council for Health Services established under KRS 194.090.

(23)[~~(22)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(24)[~~(23)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility.

(25)[~~(24)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(26)[~~(25)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person.

(27)[~~(26)~~] To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area.

(28)[~~(27)~~] "To establish" means to construct, develop, or initiate a health facility.

(29)[~~(28)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a

capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract.

(30)[~~(29)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 3. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply, after September 15, 1991, to licensed acute-care hospitals, as defined by administrative regulation, in counties with more than 3,000 acute-care hospital beds, except as these provisions relate to rehabilitation beds and long-term care beds.

(3) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts ***except for physicians' offices which are also abortion facilities as defined under subsection (1) of Section 2 of this Act;***

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts ***except for physicians' offices which are also abortion facilities as defined under subsection (1) of Section 2 of this Act;*** except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(4) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

Section 4. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by administrative regulation under KRS Chapter 13A reasonable application fees for licenses and issue other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter; [~~and~~]

(c) Establish licensure standards and procedures to ensure safe, adequate, and efficient ***abortion facilities,*** health facilities and health services. These regulations, under KRS Chapter 13A, shall include, but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel, and minimum standards for maintaining patient records;
2. Licensure application and renewal procedures; and
3. Classification of health facilities and health services according to type, size, range of services, and level of care***; and***

(d) Compile in a single document, maintain, and make available to abortion facilities and the public during regular business hours, all licensure standards and procedures issued under KRS Chapter 13A related to abortion facilities.

(2) The cabinet may authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated by the commission and the cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, no later than September 1, 1994, and subject to the provisions of KRS Chapter 13A, promulgate administrative regulations providing licensure standards and procedures for abortion facilities. The cabinet shall begin enforcing the administrative regulations on March 1, 1995.

(2) Any person operating an abortion facility for which a license is required under this chapter may apply for the license prior to March 1, 1995.

(3) Each abortion facility shall report monthly to the cabinet such information as may be required by the cabinet in its administrative regulations for each abortion performed in the facility.

(4) Licensed acute care hospitals shall be exempt from the provisions of Sections 5 and 6 of this Act, except for any reporting requirements issued by the cabinet.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Each abortion facility shall make a written agreement with a licensed acute care hospital which will accept, treat, and is capable of treating patients with unforeseen complications related to an abortion facility procedure.

(2) If unforeseen complications arise prior to or during an abortion facility procedure, the patient shall be transferred to a licensed acute care hospital with whom the abortion facility has a written agreement as provided under subsection (1) of this section.

(3) Each abortion facility shall make a written agreement with a licensed local ambulance service for the transport of any emergency patient, subject to subsection (1) of this section, to the licensed acute care hospital.

(4) Any written agreement between an abortion facility and an acute care hospital and a local ambulance service shall be filed with the cabinet.

(5) Licensed acute care hospitals shall be exempt from the provisions of Sections 5 and 6 of this Act, except for any reporting requirements issued by the cabinet.

Section 7. KRS 214.450 is amended to read as follows:

As used in KRS 214.452 to 214.466, unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS 216B.015[~~(11)~~] which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015[~~(12)~~] and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General, upon certification by the Secretary of the Cabinet for Human Resources, shall seek injunctive relief

in a court of proper jurisdiction to prevent violations of the provisions of KRS Chapter 216B regarding abortion facilities or the rules, regulations, and standards promulgated in furtherance thereof in cases where other administrative penalties and legal sanctions imposed have failed to prevent or cause a discontinuance of any of these violations.

Section 9. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility *or abortion facility* without first obtaining a license or continues to operate a health facility *or abortion facility* after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any boarding home which does not register as required by KRS 216B.305, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered.

(8) Any person or persons or other entity or entities establishing, managing, or operating an abortion facility or conducting the business of an abortion facility and which otherwise violates any provision of this chapter or any administrative regulation issued thereunder regarding abortion facilities shall be subject to revocation or suspension of the license of the abortion facility or nonlicensure of the abortion facility. In addition, any violation of any provision of this chapter regarding abortion facilities or any administrative regulation related thereto by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or by careless, negligent, or incautious disregard for such statute or administrative regulation, either by persons acting individually or in concert with others, shall constitute a violation and shall be punishable by a fine not to exceed one thousand dollars ($1,000) for each such offense. Each day of continuing violation shall be considered a separate offense. The venue for prosecution of any such violation shall be in any county of the state wherein any such violation, or portion thereof, occurred.

Section 10. Sections 2 to 9 of this Act shall not be construed as repealing any of the laws of the Commonwealth relating to abortion facilities but shall be held and construed as ancillary and supplemental thereto.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 11 to 14 and Section 16 of this Act the following definitions apply unless the context otherwise requires:

(1) "Abortion" means the use of any instrument, medicine, drug or any other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) "Medical emergency" means that condition which, on the basis of the physician's best clinical judgment, so complicates a pregnancy as to necessitate an immediate abortion to avert the death of the mother or for which a twenty-four (24) hour delay will create grave peril of immediate and irreversible loss of major bodily function.

(3) "Probable gestational age of the unborn child" means what, in the judgment of the physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

No abortion shall be performed or induced except with the voluntary and informed written consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed, if and only if:

(1) The woman is provided with a copy of her pregnancy test result by the physician who is to perform the abortion, or by the referring physician, at least twenty-four (24) hours before the abortion is to be performed or induced;

and

(2) The woman is told the following by the physician who is to perform the abortion or by the referring physician, at least twenty-four (24) hours before the abortion:

(a) The name of the physician who will perform the abortion;

(b) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;

(c) The probable gestational age of the unborn child at the time the abortion is to be performed; and

(d) The medical risks associated with carrying her child to term; and

(3) The woman is informed, by the physician or his agent, at least twenty-four (24) hours before the abortion:

(a) That medical assistance benefits may be available for prenatal care, childbirth and neonatal care;

(b) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion; and

(c) That she has the right to review the printed materials described in Section 13 of this Act, relating to printed information. The physician or his agent shall orally inform the woman the materials have been provided by the state of Kentucky and that they describe the unborn child and list agencies which offer alternatives to abortion. If the woman chooses to view the materials, copies of them shall be furnished to her. The physician or his agent may disassociate themselves from the materials, and may comment or refrain from comment on them as they choose; and

(4) The woman certifies in writing, prior to the abortion, that the information described in subsections (1) to (3) of this section has been furnished her, and that she has been informed of her opportunity to review the information referred to in subsections (1) to (3) of this section; and

(5) Prior to the performance of the abortion, the physician who is to perform or induce the abortion or his agent receives a copy of the written certification prescribed by subsection (4) of this section.

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall publish in English, within sixty (60) days after the effective date of this Act, the following easily comprehensible printed materials:

(a) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers in which they might be contacted, or, at the option of the Cabinet for Human Resources, printed materials including a toll-free, twenty-four (24) hour a day telephone number which may be called to obtain, orally, a list and description of agencies in the locality of the caller and of the services they offer; and

(b) Materials designed to inform the woman of the probable anatomical and physiological characteristics of an unborn child at two (2) week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival. The materials shall also include clear photographs of an unborn child taken at monthly gestational increments. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages.

(2) The materials shall be printed in a typeface large enough to be clearly legible.

(3) The materials required under this section shall be available at no cost from the Cabinet for Human Resources upon request and in appropriate number to any person, facility, or hospital.

SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

When a medical emergency compels the performance of an abortion, the physician shall inform the woman, prior to the abortion if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or for which a twenty-four (24) hour delay will create grave peril of immediate and irreversible loss of major bodily function.

Section 15. KRS 311.720 is amended to read as follows:

Except as provided in Sections 11 to 14 of this Act, as used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death.

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216.

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for human resources.

(4) "Department" shall mean the Department for Human Resources of the Commonwealth of Kentucky.

(5) "Fetus" shall mean a human being from fertilization until birth.

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death.

(7) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter.

(8) "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother.

(9) "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

Section 16. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Human Resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) ***Anyone who purposefully, knowingly or recklessly performs or attempts to perform an abortion without complying with Sections 12 to 14 of this Act commits a Class A misdemeanor. No penalty may be assessed against the woman upon whom the abortion is performed or attempted to be performed. No penalty for failure to comply with Section 12 or that portion of Section 12 requiring a written certification that the woman has been informed of her opportunity to review the information referred to in Section 12 may be assessed unless the Cabinet for Human Resources has made the printed materials available at the time the physician or his agent is required to inform the woman of her right to review them*** [~~Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor~~].

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the

person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.

(27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 17. The following KRS sections are repealed:

311.729 Information on alternatives.

311.726 Voluntary and informed consent of woman -- Certificate -- Emergencies -- Civil liability of physician.

Section 18. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Orders of the Day (Continued)

SB 33, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of Committee Amendment No. 1 to **SB 33**. Agreed.

Representative Lee moved that **SB 33**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 23, 1994 roll call on **SB 33** - Appendix)

SB 33, as amended, was passed and the title agreed to.

Representative Lee moved that the vote by which **SB 33**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 29, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **SB 29**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 29**. Agreed.

Representative Geveden moved that **SB 29**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23, 1994 roll call on **SB 29** - Appendix)

SB 29, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 29**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 89 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 89** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23 , 1994 roll call on **SB 89** - Appendix)

SB 89 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 89** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 157**, by Representative Lewis:

On page 4, after line 17, by inserting the following:

"Section 4. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer***, classified alcoholic beverage control enforcement officers,*** and Commonwealth detective, active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 5. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(2)	Rectifier's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(3)	Blender's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	$ 25.00
	(a) Small winery off-premises retail license, per annum	$ 25.00
(6)	Wholesaler's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class	$ 600.00
	(b) In counties containing cities of the second class	$ 500.00
	(c) In counties containing cities of the third class	$ 400.00
	(d) In counties containing cities of the fourth class	$ 300.00
	(e) In all other counties	$ 200.00
(8)	Retail drink license, per annum:	
	(a) In counties containing cities of the first class	$ 800.00
	(b) In counties containing cities of the second class	$ 500.00
	(c) In counties containing cities of the third class	$ 400.00
	(d) In counties containing cities of the fourth class	$ 300.00
(9)	Transporter's license, per annum	***$100.00*** [~~$ 25.00~~]
(10)	Dining car license, per annum	$ 50.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12)	Special industrial alcohol license, per annum	$ 25.00
(13)	Special nonindustrial alcohol license, per annum	$ 25.00
(14)	Special agent's or solicitor's license, per annum	***$35.00*** [~~$ 20.00~~]
(15)	Special storage or warehouse license, per annum	$ 100.00
(16)	Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).	
(17)	Special private club license, per annum	$ 150.00
(18)	Special Sunday retail drink license	$ 300.00
(19)	Nonresident, special agent or solicitor's license, per annum	***$35.00*** [~~$ 20.00~~]
(20)	Transport permit, nonresident license, per annum	***$100.00*** [~~$ 25.00~~]
(21)	Through transporter's license, per annum	***$100.00*** [~~$ 25.00~~]

(22)	Freight forwarder's license, per annum	***$100.00*** [~~$ 25.00~~]
(23)	Supplemental bar license:	
	(a) In counties containing cities of the first class	$ 800.00
	(b) In counties containing cities of the second class	$ 500.00
	(c) In counties containing cities of the third class	$ 400.00
(24)	Restaurant wine license, per annum:	
	(a) New applicants	$ 300.00
	(b) Renewals	$ 200.00
(25)	Farm winery license, per annum	$ 25.00
	(a) Farm winery retail outlet license	$ 5.00
(26)	Special temporary wine license	$ 25.00
(27)	Caterer's license, per annum	$ 400.00

(28) ***Any*** [~~Such~~] other special license ***that*** [~~as~~] the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 6. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1)	Brewer's license, per annum	***$1,700.00*** [~~$1,500.00~~]
(2)	Microbrewery license, per annum	$ 250.00
(3)	Distributor's license, per annum	***$500.00*** [~~$ 200.00~~]
(4)	Retailer's license per annum:	
	(a) New applicants	***$150.00*** [~~$ 200.00~~]
	(b) Renewals	***$150.00*** [~~$ 75.00~~]
(5)	Dining car license, per annum	$ 100.00
(6)	Transporter's license, per annum	***$100.00*** [~~$ 25.00~~]
(7)	Special temporary license, per month or part of month	$ 12.50
(8)	Special off-premises storage license, per annum	***$100.00*** [~~$ 25.00~~]
(9)	Distributor's storage, per annum	$ 50.00
(10)	Special beer transporter's license, per annum	***$100.00*** [~~$ 25.00~~]

(11) ***Any*** [~~Such~~] other special licenses ***that*** [~~as~~] the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by ***administrative*** regulation and adopted by the state board. Applicants for special licenses provided for ***in this subsection*** [~~under the authority granted in subsection (11)~~] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board ***may*** by ***administrative*** regulation ***prescribe*** [~~prescribes~~].".

Floor Amendment No. 1 to **SB 154**, by Representative Gedling:

On page 3, after line 19, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

"***As used in Sections 2 to 9 of this Act unless the context otherwise requires:***

(1) "Department" means the Department of Agriculture;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without the Commonwealth;

(3) "Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid;

(4) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(5) "Sub-jobber" means any person who purchases cigarettes on which the Kentucky cigarette tax has been paid from a wholesaler licensed pursuant to KRS 138.195 and makes the cigarettes available to a retailer for resale; and

(6) "Tobacco product" means any product that contains tobacco and is intended for human consumption.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Sub-jobbers who provide tobacco products to retailers shall report the name and address of each retailer to the department or its agent in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each person engaged in the business of selling tobacco products at retail shall notify each individual employed by that person as a retail sales clerk of the following requirements of the laws of the Commonwealth:

  (a) The sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited by law; and

  (b) Proof of age shall be demanded from a prospective purchaser of a tobacco product if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of the effective date of this section. The person shall signify receipt of the notice required by this section by signing a form that states as follows: "I understand that the law of the Commonwealth of Kentucky prohibits the sale of tobacco products to persons under the age of eighteen (18) years, and requires that proof of age be demanded from a prospective purchaser of tobacco products if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years. I promise, as a condition of employment, to observe this law."

(3) Any person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the department using a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The department shall enforce KRS 438.045 and KRS 365.395 in a manner that may reasonably be expected to reduce the extent to which tobacco products are sold or distributed to persons under the age of eighteen (18) years, regardless of whether the products are sold at retail, over the counter, or through vending machines, and shall annually conduct random, unannounced inspections of locations where tobacco products are sold or distributed to ensure compliance with KRS 438.045 and KRS 365.395. The inspections shall be conducted in those locations where, and at times when, persons under the age of eighteen (18) years are most likely to attempt to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with KRS 438.045 and KRS 365.395 only if the testing is conducted under the direct supervision of the department, a sheriff, or a chief of police, or their employees, and written parental consent has been obtained. The enforcement division of the department shall prepare annually for submission by the Governor to the Secretary of the United States Department of Health and Human Services the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Fines collected pursuant to KRS 438.045, KRS 365.395, and Section 4 of this Act, shall be used to offset the costs of enforcement of KRS 438.045, KRS 365.395, and Section 4 of this Act.

Section 7. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18) ***years***, or knowingly solicit any person under the age of eighteen (18) ***years*** to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under ***the*** age eighteen (18) ***years***.

(3) ***Any person who sells tobacco products at retail shall ask the prospective purchaser for proof of age if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.***

(4) A person who violates subsection (1)***,*** [~~or~~] (2)***, or (3)*** of this section shall be subject to a fine of not less than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] nor more than ***two hundred*** fifty dollars ***($250)***($50) for ***each***[~~a first~~] violation [~~and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation~~].

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that KRS 438.045, KRS 365.395, and Section 4 of this Act shall be enforced in an equitable and uniform manner throughout the Commonwealth. For the purpose of equitable and uniform enforcement, the provisions of Sections 2 to 9 of this Act shall supersede any existing or subsequently enacted local law, ordinance, or administrative regulation which relates to the use, sale, or distribution of tobacco products. It is the intent of the General Assembly that Sections 2 to 9 of this Act be enforced so as to ensure the eligibility for and receipt of any federal funds or

grants that the Commonwealth of Kentucky now receives or may receive relating to the provisions of Sections 2 to 9 of this Act.

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or ***other*** tobacco products may ***distribute***~~[provide]~~ cigarettes or ***other*** tobacco products or samples thereof ~~[free of charge]~~ to any person under the age of eighteen (18) ***years; however, it shall not be unlawful to distribute cigarettes or other tobacco products to a family member or a personal acquaintance for noncommercial purposes, or to an employee when required in the performance of the employee's duties.***

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred***~~[twenty five]~~ dollars ***($100)***~~[($25)]~~ nor more than ***two hundred fifty*** ~~[one hundred]~~ dollars ***($250)***~~[($100)]~~ for each offense. ***The fine shall be administered by the department or its agent using a civil enforcement procedure.***".

Floor Amendment No. 2 to **SB 316**, by Representative Scorsone:

On page 1, after line 24, by inserting the following:

"***(3) This section shall not apply to a jail or detention facility.***".

Floor Amendment No. 3 to **SB 316**, by Representative Scorsone:

On page 1, after line 24, by inserting the following:

"***(3) This section shall not apply to a jail or detention facility which has a smoking policy in effect on the effective date of this Act.***"

Orders of the Day (Continued)

SJR 51 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SJR 51** be adopted.

On the roll call the vote was: Yeas 89, Nays 0. (See March 23, 1994 roll call on **SJR 51** - Appendix)

SJR 51 was adopted.

Representative Little moved that the vote by which **SJR 51** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 206 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 206** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 23 , 1994 roll call on **SB 206** - Appendix)

SB 206 was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 206** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 58 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **HR 58** be adopted.

HR 58 was adopted by voice vote.

SB 184, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **SB 184**. Agreed.

Representative LeMaster moved that **SB 184,** by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23, 1994 roll call on **SB 184** - Appendix)

SB 184, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 184**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to Committee Amendment No. 1 to **SB 247**, by Representative Riner:

On line 3, after the word "*diversity*", by inserting the following: "*and the important role of religion in the formation of the nation.*".

Orders of the Day (Continued)

SB 301 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 301** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 23 , 1994 roll call on **SB 301** - Appendix)

SB 301 was passed and the title agreed to.

SB 237 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SB 237** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 23 , 1994 roll call on **SB 237** - Appendix)

SB 237 was passed and the title agreed to.

Representative Little moved that the vote by which **SB 237** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 311, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 311** be returned to the Orders of the Day. Agreed.

Representative Stumbo moved that the rules be suspended for a meeting of the Committee on Rules upon Recess. Agreed.

Recess

Representative Stumbo moved that the House recess for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules and to go back into Orders of the Day. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 136, SB 151, SB 266, HR 97, HR 106, HCR 108, SB 307, SJR 68** and **SCR 86** have been posted for passage in the Orders of the Day for March 24, 1994.

The Committee on Rules reported that the following Bills have been recommitted:

Elections and Constitutional Amendments: **HB 55, HB 118, HB 172, HB 228**

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 154**, by Representative Stumbo:

On page 3, Below line 19, By inserting the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 9 and Section 10 of this Act unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

> *"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."*

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 2 to 9 and Section 10 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet in a civil enforcement procedure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 2 to 9 and Section 10 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may

be used to test compliance with the provisions of Sections 2 to 9 and Section 10 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 2 to 9 and Section 10 of this Act. Each local health department, or district health department that agrees to enforce Sections 2 to 9 and Section 10 of this Act shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 2 to 9 and Section 10 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 2 to 9 and Section 10 of this Act.

Section 9. KRS 438.045 is amended to read as follows:

(1) No person shall [~~knowingly~~] sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or [~~knowingly~~] solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation.

Section 10. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** [~~provide~~] cigarettes or tobacco products***, including*** [~~or~~] samples thereof***,*** free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)*** [~~($100)~~] for each offense. ***The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.***".

Floor Title Amendment No. 2 to **SB 154**, by Representative Stumbo:

AN ACT relating to state government.

Floor Amendment No. 7 to **SB 136**, by Representative Marzian:

On page 2, line 12, by inserting an opening bracket before "upon", by inserting a closing bracket after "request", and by inserting strikethroughs through "upon her request".

Floor Amendment No. 8 to **SB 136**, by Representative Marzian:

On page 3, below line 27, by adding the following new subsection:

"***(11) The parent of any dependent minor who refuses to give consent or who is denied consent pursuant to the requirements of this section or the medical insurance carrier for the parent shall cover all medically necessary services related to the minor's pregnancy and delivery.***"

Floor Amendment No. 9 to **SB 136**, by Representative Marzian:

On page 1, line 3, by inserting after "of" the word "***sixteen (16)***";

And on page 1, line 3, by inserting an opening bracket before "eighteen", by inserting a closing bracket after "(18)", and by inserting strikethroughs through "eighteen (18)".

Floor Amendment No. 7 to **SB 311**, by Representative Heleringer:

On page 1, line 11, by deleting lines 11 and 12 in their entirety and by renumbering the remaining subsections accordingly;

And on page 3, line 9, by deleting lines 9 and 10 in their entirety and by relettering the remaining paragraph accordingly;

And on page 4, lines 8 and 9, by deleting "***and artificially provided nutrition and hydration***";

And on page 4, line 25, by deleting lines 25 through 27 in their entirety;

And on page 5, line 1, by deleting lines 1 to 5 in their entirety;

And on page 5, line 7, by deleting "***and artificially provided nutrition and hydration***";

And on page 8, line 12, by deleting lines 12 through 26 and by renumbering the remaining subsection accordingly;

And on page 9, line 1, by deleting "***and artificially provided nutrition and hydration***";

And on page 10, line 6, by deleting lines 6 through 9 in their entirety;

And on page 11, line 27, by deleting "***or artificially provided nutrition***";

And on page 12, line 1, by deleting "***and hydration***";

And on page 12, line 3, after "***treatment***" by deleting "***or***";

And on page 12, line 4, by deleting "***artificially provided nutrition and hydration***";

And on page 13, line 6, by deleting "***or artificially***";

And on page 13, line 7, by deleting "***provided nutrition and hydration***".

Orders of the Day (Continued)

SB 311, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **SB 311** be passed.

On the roll call the vote was: Yeas 52, Nays 43. (See March 23 , 1994 roll call on **SB 311** - Appendix)

SB 311 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **SB 311** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 280 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved that **SB 280** be passed.

On the roll call the vote was: Yeas 62, Nays 25. (See March 23 , 1994 roll call on **SB 280** - Appendix)

SB 280 was passed and the title agreed to.

Representative Butler moved that the vote by which **SB 280** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 168, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 168** be returned to the Orders of the Day. Agreed.

SB 258, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **SB 258** be passed.

Representative Brown moved the adoption of Floor Amendment No. 1 to **SB 258**.

Representative Farrow inquired if Floor Amendment No. 1 was germane to **SB 258**.

The Speaker ruled that Floor Amendment No. 1 was germane to **SB 258**.

Representative Brown moved the adoption of Floor Amendment No. 1 to **SB 258**. Agreed.

Representative Cyrus moved that **SB 258**, as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 8. (See March 23, 1994 roll call on **SB 258** - Appendix)

SB 258, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 258**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 346 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 346** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 23 , 1994 roll call on **SB 346** - Appendix)

SB 346 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 346** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 228 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SB 228** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 23 , 1994 roll call on **SB 228** - Appendix)

SB 228 was passed and the title agreed to.

Representative Little moved that the vote by which **SB 228** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 47, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **SB 47**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 47**. Agreed.

Representative Lindsay moved that **SB 47**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 23, 1994 roll call on **SB 47** - Appendix)

SB 47, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 47**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 186 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **SB 186** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 23 , 1994 roll call on **SB 186** - Appendix)

SB 186 was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 186** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 131 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 131** be passed.

On the roll call the vote was: Yeas 70, Nays 2. (See March 23 , 1994 roll call on **SB 131** - Appendix)

SB 131 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **SB 131** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 10 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SJR 10** be adopted.

On the roll call the vote was: Yeas 84, Nays 0. (See March 23, 1994 roll call on **SJR 10** - Appendix)

SJR 10 was adopted.

Representative Rasche moved that the vote by which **SJR 10** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 53 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 53** be passed.

On the roll call the vote was: Yeas 80, Nays 2. (See March 23 , 1994 roll call on **SB 53** - Appendix)

SB 53 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 53** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 248 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **SB 248** be passed.

On the roll call the vote was: Yeas 73, Nays 0. (See March 23 , 1994 roll call on **SB 248** - Appendix)

SB 248 was passed and the title agreed to.

Representative Wayne moved that the vote by which **SB 248** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 270**. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill and Resolution have been posted for Committee consideration:

Education: **HCR 68**

State Government: **SB 270**

Report of Committees (Continued)

The Committee on State Government reported **SB 80**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 80, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.615 is amended to read as follows:

(1) If a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties as the position from which he was disabled, the board may reduce the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment, otherwise, the system shall have the right to recover payments made during the employment.

(2) If it is determined that any disabled recipient is able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified.

(3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and

the system shall utilize procedures consistent with KRS 61.665, including services of an examiner, in determining the amount of reduction in retirement allowance under this section.

(4) If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2) ~~[and further reduced by the actuarial value of the total amount of the disability retirement allowances he has received prior to reduction or discontinuation]~~;

(d) The member shall remain eligible for reinstatement of his disability allowance upon re-evaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the system after the member's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the member is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 2. The amendment of KRS 61.615(4)(c) in Section 1 of this Act shall be retroactive to July 15, 1988. Any disability retiree whose early retirement benefit was reduced by the actuarial value of the total amount of the disability retirement allowances received prior to reduction or discontinuance shall be paid the amount of the reduction between July 15, 1988 and the effective date of this Act, and there shall be no such reduction thereafter.

The Committee Amendment No. 1 to **SB 80** is as follows:

On page 2, line 1, after "61.595(2)", by inserting:

"***; (d) The benefit as provided in KRS 61.592(2) shall be***"; and by placing a closing bracket after "~~[and~~"; and by removing the strikethroughs from "~~further~~"; and

By removing the strikethroughs from all language on line 2; and

By removing the strikethroughs and closing bracket from all language on line 3; and

On line 4, by inserting "***(e)***" before "(d)" and by bracketing and striking through "(d)"; and

On line 7, by inserting "***(f)***" before "(e)" and by bracketing and striking through "(e)"; and

On line 17, by inserting the following after "Section 2": "Notwithstanding any provision to the contrary, subsections (4)(d) and (5) of Section 1 of this Act shall be suspended retroactively to July 15, 1988, and the suspension shall extend through December 31, 1994."; and

On page 2, lines 17 and 18, by deleting "The amendment of KRS 61.615(4)(c) in Section 1 of this Act shall be retroactive to July 15, 1988."; and

On page 2, line 21, after "1988", by adding "and December 31, 1994.", and by deleting the remainder of line 21; and

On page 2, by deleting line 22.

Motions, Petitions and Communications (Continued)

Representative LeMaster moved the adoption of the following **Legislative Citation No. 127**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its most sincerest condolences and genuine expressions of sympathy for the death of Mark Logan Ragland. Members of the House of Representatives do honor said individual and Kathy Moore Ragland, his mother, an invaluable employee and friend of the Legislative Research Commission. This prestigious body shares in her phenomenal loss and offers comfort in the knowledge that Mark Ragland is serene beyond the cares and worries of this world. This prestigious Body does hereby adjourn this 23rd day of March, 1994 in memory of the blithe young man whose loving smile, and tremendous potential will forever be recorded in a mother's heart.

Representative Damron moved the adoption of the following **Legislative Citation No. 128**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors James Ray Davis in recognition of his retirement as Magistrate of Jessamine County for thirty-two years of faithful service as Magistrate to Jessamine County. We are honored to join your many colleagues and friends in gratitude for your unflagging efforts while serving as Magistrate. Your dedication has made you a valued and confidential friend to the community of Jessamine County. The entire membership joins Representative Robert R. Damron in honoring you for your untiring years service.

Representative Damron moved the adoption of the following **Legislative Citation No. 129**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to Jeremy Simpson, Lincoln County High School, Kentucky's 1993 "Mr. Football" for your achievements during your athletic career. As running back on the football team, your contributions have been sensational, and you have brought a great deal of pride to the great Commonwealth of Kentucky, Lincoln County High School, and your hometown in Crab Orchard, Kentucky. The House of Representatives joins with Representative Robert R. Damron in honoring you on becoming Kentucky's 1993 "Mr. Football", and wishing you every success as you further your academic and athletic career.

Representative Damron moved the adoption of the following **Legislative Citation No. 130**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your efforts and offers its sincerest congratulations to the Lincoln County High School Football Team for your achievements during your athletic careers. Your contributions have been outstanding, and you have brought a great deal of recognition to Lincoln County High School and your community. The House of Representatives joins with Representative Robert R. Damron in honoring you on being the runners-up in the Class AAA state finals and wishing you every success as you further your academic and athletic careers.

Representative Collins moved the adoption of the following **Legislative Citation No. 78**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your efforts and offers its sincerest congratulations to the "Cardinals Wrestling Team" 1994 State Champions Sheldon Clark High School for conquering Sheldon Clark's first state wrestling championship. Your achievements are the payoff of discipline and team work. The Sheldon Clark Wrestling Team has brought a great of recognition and pride to Sheldon Clark High School and your community. The House of Representatives joins with Representative Hubert Collins in honoring you on your many achievements and wishes you every success as you further your academic and athletic careers.

Representative Arnold moved the adoption of the following **Legislative Citation No. 133**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Charles R. Worthington in recognition of his 90th Birthday March 23, 1994. The entire membership joins with your beloved nephew Representative Pete Worthington, your family and dearest friends in celebration of your birthday, and extending its very best birthday wishes on this memorable occasion.

Representative Rasche moved the adoption of the following **Legislative Citation No. 125**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Kentucky Society of Professional Engineers who, with professional engineers, sponsors, educators, parents and volunteers contributed time, talent, and money toward the success of the 1994 chapter and state Math counts program and competition. Math counts is the first nationwide program of its kind. The program combines the efforts of education, business, government, and the technological community to promote math excellence among middle school students. The entire membership joins Representative Frank Rasche in commending this educational innovation and expresses the hope for continued success.

Representative Hancock moved the adoption of the following **Legislative Citation No. 132**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the AAU and the AAU Boys' Basketball Committee. The entire membership joins Representative C. M. "Hank" Hancock in commending this admirable committee for the interest and energy given to young athletes from all over the nation and the tireless efforts in organizing the National Championship Basketball Play-Off to be held in Frankfort during the summer of 1995.

Representative Simpson moved that the rules be suspended to withdrawn **HB 915**. Agreed.

Representative Nesler moved that the rules be suspended to withdraw Floor Amendment No. 5 to **SB 153**. Agreed.

Representative Palumbo moved that the rules be suspended to withdraw Floor Amendment No. 3 to **SB 172**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **SB 287**, by Representative Cave:

On page 24, after line 22 by inserting,

"Section 25. KRS 18A.245 is amended to read as follows:

(1) The system shall be administered by a board of trustees composed of ***four (4)*** ~~[five (5)]~~ members, who shall be as follows:

(a) [~~Commissioner of insurance, ex officio;~~

~~(b)~~] Secretary, Finance and Administration Cabinet, ex officio;

(b) [~~(c)~~] Commissioner of personnel, ex officio;

(c) [~~(d)~~] Two (2) members appointed by the Governor of the Commonwealth. Of these two (2) members, it is recommended that one (1) be the general manager of Kentucky retirement systems.

(2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The Department of Personnel shall perform the administrative functions of the board, which shall be attached to the department for purposes of administration. The board may, but is not limited to the following actions:

(a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the commissioner;

(b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;

(c) Establish a system of accounting;

(d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e) Do all things, take all actions and make all rules and administrative regulations, not inconsistent with the provisions of KRS 18A.230 to 18A.275.

(8) All employees of said board shall serve during its will and pleasure.

(9) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public."; and

On page 24, line 23, after "Section" by changing "25" to "26".

Motions, Petitions and Communications (Continued)

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "nay" to "yea" on **HB 402**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HR 89** and **SB 119**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 43**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HCR 95**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 311**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Todd moved that his vote be changed from "nay" to "yea" on **HB 626** and **HB 678**. Agreed.

Representative Stumbo moved that the House stand at east to wait upon a guest. Agreed.

The Speaker called the House to order.

The following member filed a request to have his name added as co-sponsor to a Resolution under rules previously suspended: **HR 108**, Representative Callahan.

The following members filed requests to have their names withdrawn as co-sponsors to a Bill: **HB 915**, Representative Callahan and Treesh.

Representative Stumbo moved that floor privileges be granted to a special guest and that he be allowed to address the House. Agreed.

Billy Ray Cyrus briefly addressed the House.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 126**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Billy Ray Cyrus for utilizing extraordinary talent and dazzling personality to represent the Commonwealth of Kentucky in its most perfect style to the north American continent and the four corners of the globe. For inasmuch as country music is an international bond and the extraordinary ability of Billy Ray Cyrus can speak in all languages, this honorable body does this day applaud the exceptional music of a phenomenal homespun Kentuckian.

Announcements

The Clerk announced the following meeting:

Banking and Insurance, fifteen minutes upon adjournment, Room 125

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 24, 1994.

On the roll call the vote was **Yeas 73**--Allen, Altman, Arnold, Ballard, Barrows, Bondurant, Bowling, Brown, Bryant, Butler, Cave, L. Clark, P. Clark, Clarke, Coleman, Cyrus, Damron, DeWeese, Farley, Farrow, Ford, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Jensen, Johnson, Kerr, Lear, Lee, Lewis, Lindsay, Lyne, Maricle, Marzian, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scott, Shacklette, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Zimmerman. **Nays 3**--Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

THURSDAY, MARCH 24, 1994

FIFTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Thomas Smith, Bardstown United Methodist Church.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Harper, Riggs, R. Smith and Worthington.

Senate Message

Announcing passage of **HB 268, HB 355, HB 462, HB 505, HB 551** and **HB 565**. Message received on **HB 187, HB 417** and **HB 562**: The Senate has passed **HB 187**, by way of Senate Committee Substitute and Senate Floor Amendment, **HB 417**, with Senate Committee Amendment and Senate Floor Amendment, and **HB 562**, by way of Senate Committee Substitute, and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 71, HB 175, HB 223, HB 257, HB 258, HB 259, HB 261, HB 262, HB 263, HB 264, HB 266, HB 267, HB 318, HB 479, HB 485, HB 514, HB 522, HB 547, HB 561, HB 570, HB 576, HB 579, HB 721, HB 931, HJR 3** and **HCR 41** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:05 p.m.)

HB 71, HB 175, HB 223, HB 257, HB 258, HB 259, HB 261, HB 262, HB 263, HB 264, HB 266, HB 267, HB 318, HB 479, HB 485, HB 514, HB 522, HB 547, HB 561, HB 570, HB 576, HB 579, HB 721, HB 931, HJR 3 and **HCR 41** delivered to the Senate and signed by the President. Delivered to the Governor on March 23, 1994 at 3:00 p.m.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 23, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **SB 262**, by Representative Zimmerman:

On page 14, between lines 22 and 23, by inserting the following:

"Section 9. KRS 141.160 is amended to read as follows:

(1) All returns of income for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the cabinet ***and shall also contain a blank voter registration application, which may be completed and returned with a completed income tax return form. The cabinet shall forward completed voter registration applications received with completed income tax return forms to the Secretary of State who shall distribute them to the appropriate county clerks for processing***.

(2) Whenever, in the opinion of the cabinet, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the cabinet may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The cabinet may also require copies of reports of adjustments made by the federal government. "; and

By renumbering the remaining sections accordingly.

Floor Amendment No. 1 to the Committee Substitute to **SB 277**, by Representative Lear:

On page 63, following line 25 and before line 26, by adding the following:

"SECTION 48. SUBCHAPTER 35 OF KRS CHAPTER 154 IS ESTABLISHED AND A NEW SECTION THEREOF IS

CREATED TO READ AS FOLLOWS:

As used in this subchapter, unless the context indicates otherwise:

(1) "Applied research and development" means those research activities occurring at educational institutions and in private enterprises which have potential commercial application;

(2) "Basic research" means research that has long range generic value to an industry classification or group of companies. Basic research is distinguished from applied research which has a more short range present value to a single company or project;

(3) "Beneficiary of an economic incentive package" means any entity for which any assessment, incentive, inducement, or tax credit is issued or awarded pursuant to KRS 154.22-010 to 154.22-070, 154.24-010 to 154.24-150, 154.26-015 to 154.26-100, and 154.28-010 to 154.28-090;

(4) "Board" means the governance board of the Kentucky Science and Technology Council, Inc.;

(5) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;

(6) "Center" means either or both of the following as the context requires:

(a) "Basic research centers" which means centers sponsored by the University of Kentucky and the University of Louisville as prescribed in Section 50 of this Act; and

(b) "Applied research centers" which means centers for applied research and technologies development as prescribed in Section 50 of this Act;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Council" means the Kentucky Science and Technology Council, Inc.;

(9) "Flexible manufacturing network" or "network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms primarily engaged in manufacturing for the purposes of, but not limited to: pooling expertise; improving technology; net market development; employee skills improvement; increasing capitalization; improving product and production quality; and developing a system of collective intelligence among participating entities;

(10) "Fund" means the Kentucky Research and Technologies Development Fund created and established pursuant to Section 52 of this Act;

(11) "Institute" means the Kentucky Institute of Research and Technologies Development created and established pursuant to Section 50 of this Act;

(12) "Key industry" means an industry or business within an industrial sector that has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists;

(13) "Sponsoring university" means any of the following that sponsor a center: the University of Kentucky, the University of Louisville, Eastern Kentucky University, Western Kentucky University, Morehead State University, Northern Kentucky University, Murray State University, and Kentucky State University; and

(14) "Secretary" means the secretary of the Cabinet for Economic Development.

SECTION 49. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that support for Kentucky businesses in basic research, applied research, development of new technologies, and technology transfer will provide Kentucky with a competitive advantage in the national and global economies.

SECTION 50. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Institute of Research and Technologies Development is hereby established. The institute shall be governed by the Kentucky Science and Technology Council, Inc., and, subject to qualification by the sponsoring universities in accordance with Section 57 of this Act, shall consist of up to two (2) basic research centers and up to six (6) applied research centers located as follows:

(a) A basic research center sponsored by the University of Kentucky;

(b) A basic research center sponsored by the University of Louisville;

(c) An applied research center to serve the central Kentucky area, sponsored jointly by the University of Kentucky and Eastern Kentucky University;

(d) An applied research center to serve the west central Kentucky area, sponsored jointly by the University of Louisville and Kentucky State University;

(e) An applied research center to serve the eastern Kentucky area, sponsored by Morehead State University;

(f) An applied research center to serve the western Kentucky area, sponsored by Western Kentucky University;

(g) An applied research center to serve the far western Kentucky area, sponsored by Murray State University; and

(h) An applied research center to serve the northern Kentucky area, sponsored by Northern Kentucky University.

(2) The basic research centers sponsored by the University of Kentucky and the University of Louisville may be integrated with the applied research centers jointly sponsored by those institutions.

(3) The institute shall be governed by the board of directors of the Kentucky Science and Technology Council, Inc., in accordance with guidelines developed in cooperation with the cabinet and adopted by both the cabinet and the council. Any university which sponsors or co-sponsors a basic or applied research center shall be entitled to have at least one (1) representative to serve as a member of the board of directors of the council, chosen as provided for in the bylaws of the council.

(4) Nothing contained in this section and Sections 51 to 57 of this Act shall be construed as altering the status or diminishing the functions and responsibilities of the University of Kentucky and the University of Louisville as research universities with recognized duties, responsibilities, and jurisdictions.

SECTION 51. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The council shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of this Act, including, but not limited to, the following:

(1) Enter into contracts with sponsoring universities for the establishment and operation of basic and applied research centers as prescribed in Sections 50 to 57 of this Act. The contracts shall be performance-based and may provide for facilities, equipment, personnel, research programs, budgets, and other matters necessary or appropriate to the operation of the centers;

(2) Solicit, borrow, accept, receive, and expend funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants, or contributions of money, property, labor, or other things of value to be used to carry out the institute's operations, functions, and responsibilities;

(3) Enter into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;

(4) Establish benchmarks for the purpose of evaluating applied research and technology transfer programs, and to evaluate or cause to be evaluated these programs and activities;

(5) Employ consultants and other persons as required in the judgment of the council to be essential to its operations, functions, and responsibilities; and

(6) Negotiate royalty payments on patents and licenses for innovations or inventions arising in the course of research sponsored or conducted by the institute at centers.

SECTION 52. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

There is established a fund entitled the "Kentucky Research and Technologies Development Fund" for the purposes and benefit of the Kentucky Institute of Research and Technologies Development. The fund may receive state appropriations, gifts, grants, and any other funds both public and private, and shall receive moneys accruing to the fund from state incentive fees as prescribed in Section 53 of this Act. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested as provided in KRS 42.500(6), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Institute of Research and Technologies Development as prescribed in Sections 50 to 57 of this Act.

SECTION 53. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Payments into the fund shall be made as follows:

(1) Any beneficiary of an economic incentive package for which the Kentucky Economic Development Finance Authority gives preliminary approval on or before December 31, 1995, shall pay a one (1) time fee of two thousand five hundred dollars ($2,500). The fee shall be paid at the closing on the incentive package contract and shall be transmitted by the cabinet to the State Treasurer for deposit into the fund;

(2) Any beneficiary of an economic incentive package for which the Kentucky Economic Development Finance Authority gives preliminary approval on or after January 1, 1996, shall pay annually to the State Treasurer an amount equal to five percent (5%) of the total amount of the tax credits and wage assessment taken by the

beneficiary for its previous fiscal year under the inducement contract, for the term of the contract or agreement by which the state incentive is issued or awarded. The payment shall be made at the time the beneficiary of the economic incentive package files its income tax return for its previous fiscal year and the payment shall be transmitted with the return. Immediately upon receipt, the State Treasurer shall deposit these funds into the Kentucky Research and Technologies Development Fund;

(3) Before any contract or agreement is entered into by the cabinet or any board or authority within or attached to them, by which an economic incentive package is to be issued or awarded pursuant to this chapter, to the beneficiary of an economic incentive package, the cabinet or the board or authority shall include in the contract or agreement provisions for the payment of the appropriate amount of the annual fee as prescribed in this section;

(4) Notwithstanding the provisions of KRS 154.22-010 to 154.22-070, on or before December 31, 1996, the cabinet may with the consent of the beneficiary of any inducement contract entered into prior to the effective date of this Act or given preliminary approval by the cabinet on or before December 31, 1995, under the provisions of KRS 154.22-010 to 154.22-070 renegotiate the terms of the contract to provide that the beneficiary will pay into the fund annually, for the remaining term of the contract, an amount equal to two percent (2%) of the total benefits received under the contract for its preceding fiscal year; in return for this commitment, the benefit period under the contract may be extended for one (1) additional year;

(5) Notwithstanding the provisions of KRS 154.24-010 to 154.24-150, 154.26-015 to 154.26-100, and 154.28-015 to 154.28-090, on or before December 31, 1996, the cabinet may with the consent of the beneficiary of any inducement contract entered into prior to the effective date of this Act or given preliminary approval by the cabinet on or before December 31, 1995, under the provisions of KRS 154.24-010 to 154.24-150, 154.26-015 to 154.26-100, and 154.28-015 to 154.28-090 renegotiate the terms of the contract to provide that the beneficiary will pay into the fund annually, for the remaining term of the contract, an amount equal to five percent (5%) of the total benefits received under the contract for its preceding fiscal year; in return for this commitment, the benefit period under the contract may be extended for one (1) additional year.

SECTION 54. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The council shall allocate moneys from the fund for the operation of the institute and the centers subject to the following limitations:

(1) The council may retain not more than eight percent (8%) of the deposits into the fund in any budget year for the central administration of the institute;

(2) After payment of expenses for central administration, not more than twenty-five percent (25%) of the remainder of the fund in any budget year shall be allocated to basic research centers and the balance shall be allocated to applied research centers;

(3) Not more than twenty percent (20%) of the total moneys allocated to applied research centers in any budget year shall be allocated to any one (1) applied research center; and

(4) All moneys allocated to the sponsoring universities for the operation of the centers shall be paid out in accordance with contracts entered into between the council and the universities as provided for in Section 51 of this Act;

(5) Notwithstanding the provisions of subsections (1) to (3) of this section:

(a) The council may defer the establishment of all centers for up to four (4) years after the effective date of this Act to allow the fund to grow to sufficient size to support operation of the centers; and

(b) The allocation percentage set forth in subsection (3) of this section may be modified by the council with approval of the cabinet for a period of up to four (4) years after the first center is established.

SECTION 55. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The council is authorized to establish accounts for each research center approved by the council in accordance with the provisions of Sections 49 to 57 of this Act. Each account shall be kept separately from any other accounts established by the council and shall be kept separately from any other moneys and accounts at participating research institutions.

(2) Each approved center may draw money from its account as approved by the council.

(3) On or before January 5, 1996, and annually on or before January 5 thereafter, the council shall submit to the Legislative Research Commission a written status report on the projects and activities of each center of the institute.

(4) The Auditor of Public Accounts shall be responsible for a biennial financial post audit of the books and records of the institute and each center approved by the institute. The audit shall be conducted in accordance with generally accepted accounting principles and shall be paid for by the institute.

SECTION 56. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The function of the basic research centers shall be to perform basic research of significant benefit to one (1) or more key industries. The areas of research to be performed by each basic research center shall be set forth in the contract between the council and the sponsoring university and shall be approved only for those projects for which the center has a commitment from a private sector partner to make use of the results of the research.

(2) The functions of the applied research centers shall be:

(a) To perform applied research, development, and technology transfer on a fee-for-service basis, to businesses and groups of businesses. In performing this function, the center shall give preference to businesses in key industries and networks of businesses;

(b) To provide advice to businesses regarding other areas of business operations necessary for improved performance, including workforce training, total quality assurance, inventory control, and reorganization of the business and workplace; and

(c) To perform applied research and technology development of significant benefit to one (1) or more key industries in areas set forth in the contract between the council and the sponsoring university.

(3) The council shall appoint advisory committees of persons knowledgeable in each key industry to advise the council and the centers with regard to research needs of the industry and to evaluate research plans and research results.

(4) It shall be the goal of the institute that eighty percent (80%) of the total revenues of each center shall be generated by payments under contracts from private businesses.

(5) To perform the functions set out in this section each center shall retain or contract with scientists, engineers, and other persons having high levels of expertise in appropriate fields of research, including but not limited to, faculty, staff and students of the sponsoring universities. However, all contacts with persons employed by the sponsoring university shall be subject to approval by the council.

SECTION 57. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Universities individually or jointly eligible to serve as sponsoring universities for the centers set forth in Section 50 of this Act may qualify by:

(1) Agreeing to match the moneys allocated to the center by the council from the fund dollar-for-dollar from nonstate, nonagency funds raised by the university for research purposes, but for university budget years ending on or before July 1, 1996, a sponsoring university may provide its matching funds by redirecting previously budgeted state or agency funds. In the discretion of the council, a university may provide all or part of its match by in-kind contributions of facilities and equipment of equal value.

(2) Providing an operations plan, acceptable to the council, for the center which sets forth staffing, facilities, equipment, anticipated business demand for services, a proposed budget, that reflects revenues from all sources including the fund, matching contributions from the sponsoring university, and anticipated receipts from research contracts with private businesses, and any other matters directed by the council; and

(3) Entering into a contract with the council which sets forth the terms and conditions upon which the center will be operated, including the operations plan agreed upon by the parties, performance standards, and funding commitments. The contract may extend beyond the end of the budget cycle of the university, may be renewed or extended by the parties, and shall be terminable by the council for nonperformance or unacceptable performance by the university as specified in the contract."; and

On page 63, line 26, by renumbering "Section 48" as "Section 58".

Representative Mason moved that the rules be suspended to allow floor privileges to M. C. Napier Navajo girls 1994 Basketball Champions. Agreed.

Representative Bentley moved the adoption of the following **Legislative Citation No. 134**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the M. C. Napier School Women's Basketball Team for outstanding performance as members of the 1993-94 M. C. Napier School Women's Basketball Team. Whereas, the Lady Navajo's captured the Women's Basketball Tournament Championship, therefore, let it be known that superb athletic performance such as has been demonstrated herein is the result of hard work, perpetual dedication and exceptional team spirit. As members of the championship M. C. Napier High School Women's Basketball Team, the recipients hereof have demonstrated a positive attitude, a winning character and have brought pride to the community and the school. This prestigious body congratulates these team members, applauds the team's achievements and extends its best wishes for continued success in all endeavors for your achievements during your athletic careers.

Representative Buis moved that the rules be suspended to introduce guests. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Health and Welfare: **SB 108**

Labor and Industry: **SB 232**

Natural Resources and Environment: **SB 338**

State Government: **HR 111**

Report of Committees

The Committee on Committees has replaced Representative Lewis with Representative Coleman on the Legislative Program Review and Investigations Committee.

The Committee on Banking and Insurance reported **SB 308**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 308, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer, with whom a person was most recently insured under a motor vehicle liability insurance policy, shall not refuse to issue a policy of motor vehicle liability insurance nor impose an additional premium solely because the person is uninsured at the time of reapplication, if the person demonstrates that:

(1) He provided his insurer or insurance agent with prior notice of his intent to nonrenew the policy and the reasons for nonrenewal;

(2) During the period he was without insurance, he did not own a motor vehicle, the registration on the insured motor vehicle was canceled because he was absent from the Commonwealth, the motor vehicle was out of use, or inoperable and under repair, or he was unable to pay the premium renewal due to unemployment or other bona fide economic hardship;

(3) During the period the person was without insurance, he was not convicted of any traffic violation under the laws of the Commonwealth; or

(4) The reapplication was made within twenty-four (24) months of the nonrenewal of the policy.

The Committee Substitute to **SB 308** is as follows:

SB 308, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer, with whom a person was most recently insured under a motor vehicle liability insurance policy, shall not refuse to issue a policy of motor vehicle liability insurance nor impose an additional premium solely because the person is uninsured at the time of reapplication, if the person demonstrates that:

(a) During the period he was without insurance, he did not own a motor vehicle, the registration on the insured motor vehicle was canceled because he was absent from the Commonwealth, the motor vehicle was out of use, or inoperable and under repair, or he was unable to pay the premium renewal due to unemployment or other bona fide economic hardship; and

(b) During the period the person was without insurance, he was not convicted of any traffic violation under the laws of the Commonwealth; and the reapplication was made within twenty-four (24) months of the nonrenewal of the policy.

(2) This section shall not be construed to permit the owner of the motor vehicles or any other person to operate or to permit the operation of the motor vehicle in this Commonwealth until the security has again been provided pursuant to Subtitle 39 of this chapter.

Section 2. KRS 304.33-030 is amended to read as follows:

For the purposes of this subtitle:

(1) "Agent" means all persons who have collected or are holding premiums or other assets of the insurer, including, but not limited to, brokers, intermediaries, managing general agents, underwriting managers, and reinsurance managers, and any

other persons who have entered into a fiduciary relationship with the insurer subject to delinquency proceedings, including, but not limited to, persons holding licenses under Subtitles 9, 32, 38, and 43 of KRS Chapter 304.

(2) "Commissioner" means the commissioner of insurance of this state.

(3) "Receiver" means receiver, liquidator, rehabilitator, or conservator, as the context requires.

(4) "Insurer" has the meaning defined in Subtitle 1 of this chapter. For purposes of this subtitle, all other persons included under KRS 304.33-020 shall be deemed to be insurers.

(5) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving ***an*** ~~[such]~~ insurer, and any summary proceeding under KRS 304.33-110 to 304.33-130, inclusive.

(6) "State" has the meaning defined in Subtitle 1 of this chapter.

(7) "Foreign country" means territory not in any state.

(8) "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an alien insurer, the state in which the insurer has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust and on deposit for the benefit of policyholders and creditors in the United States.

(9) "Ancillary state" means any state other than a domiciliary state.

(10) "Reciprocal state" means any state other than this state in which in substance and effect subsection (1) of KRS 304.33-200, subsections (1) and (3) of KRS 304.33-530, KRS 304.33-540, and KRS 304.33-560 to 304.33-590, inclusive, are in force, and in which provisions are in force requiring that the commissioner be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

(11) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or limited classes of persons, and as to specifically encumbered property the term includes all ***the*** ~~[such]~~ property or its proceeds in excess of the amount necessary to discharge the sums secured thereby, except as otherwise expressly provided in this subtitle. Assets held in trust and on deposit for the security or benefit of all policyholders or all policyholders and creditors, in more than a single state, shall be treated as general assets.

(12) "Reinsurance intermediary" means any person who acts as a broker in soliciting, negotiating, or procuring the making of any reinsurance contract or binder, or acts as an agent in accepting any reinsurance contract or binder on behalf of an insurer.

(13) "Court" means the Franklin Circuit Court.

(14) "Preferred claim" means any claim with respect to which the law accords priority of payment from the general assets of the insurer.

(15) "Special deposit claim" means any claim secured by a deposit made pursuant to law for the security or benefit of one (1) or more limited classes of persons, but not including any claim secured by general assets.

(16) "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claims or claims against general assets including, but not limited to, claims of setoff, counterclaim, or recoupment against obligations to pay premiums to the insurer. The term also includes claims which have become liens upon specific assets by reason of judicial process, except where they have been invalidated.

(17) "Premium" has the meaning set forth in Subtitle 14 of this chapter.

(18) "Insolvency" means that the insurer is unable to pay its debts or meet its obligations as they mature or that its assets do not exceed its liabilities plus the greater of:

(a) Any capital and surplus required by law to be constantly maintained, or

(b) Its authorized and issued capital stock. For purposes of this subsection, "assets" includes one-half (1/2) of the maximum total assessment liability of the policyholders of the insurer, and "liabilities" includes reserves required by law. For policies issued on the basis of unlimited assessment liability, the maximum total liability, for purposes of determining solvency only, shall be deemed to be that amount that could be obtained if there were one hundred percent (100%) collection of an assessment at the rate of ten (10) mills.

(19) "Fair consideration" is given for property or an obligation:

(a) When in exchange for such property or obligation, as a fair equivalent ***therefore*** ~~[therefor]~~, and in good faith, property is conveyed or services are rendered or obligation is incurred or an antecedent debt is satisfied; or

(b) When such property or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared to the value of the property or obligation obtained.

(20) "Creditor" is a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent.

(21) "Transfer" includes the sale and every other method, direct or indirect, of disposing of or of parting with property or with an interest therein or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely

or conditionally, voluntarily or involuntarily, by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

(22) "Doing business" has the meaning designated in Subtitle 1.

(23) "Guaranty association" means the Kentucky Insurance Guaranty Association, the Kentucky Life and Health Insurance Guaranty Association and any other similar entity now or hereafter created by the Legislature of this state for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence in, or hereafter created by the legislature of, any other state.

(24) "Allocated loss adjustment expenses" means expenses specifically identifiable to individual claim files and incurred for outside service expenses such as independent adjuster's fees, attorney's fees, appraiser's fees, court cost, expert or witness fees, or other outside service fees incurred in the handling of specific claims.

Section 3. KRS 304.33-180 is amended to read as follows:

(1) Transformation to liquidation. Whenever he believes that further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors or policyholders, or would be futile, the rehabilitator may petition the court for an order of liquidation. A petition under this subsection shall have the same effect as a petition under KRS 304.33-190. The court shall permit the directors to defend against the petition and ***may*** [~~shall~~] order payment from the estate of the insurer of ***reasonable*** [~~such~~] costs and other expenses of defense ***upon a showing that the board of directors of the insurer incurred fees and expenses based on their best knowledge, information, and belief, formed after reasonable inquiry which indicated that the opposition was in the best interests of the insurer, was well grounded in fact, and was warranted by existing law, and that the opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of liquidation*** [~~as justice requires~~].

(2) Order to return to insurer. The rehabilitator may at any time petition the court for an order terminating rehabilitation of an insurer. If the court finds that rehabilitation has been accomplished and that grounds for rehabilitation under KRS 304.33-140 no longer exists, it shall order that the insurer be restored to possession of its property and the control of its business. The court may also make that finding and issue that order at any time upon its own motion.

Section 4. KRS 304.33-380 is amended to read as follows:

(1) Claims contingent on judgments. The claim of a third party which is contingent only on his first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency.

(2) Claims under terminated policies. Any claim that would have become absolute if there had been no termination of coverage under KRS 304.33-120, and which was not covered by insurance acquired to replace the terminated coverage, shall be allowed as if the coverage had remained in effect, unless at least ten (10) days before the insured event occurred either the claimant had actual notice of the termination or notice was mailed to him as prescribed by subsection (1) of KRS 304.33-250, or subsection (1) of KRS 304.33-260. If allowed, the claim shall share in distributions under subsection ***(11)***[~~(8)~~] of KRS 304.33-430.

(3) Other contingent claims. A claim may be allowed even if contingent, if it is filed in accordance with subsection (2) of KRS 304.33-360. It may be allowed and may participate in all dividends declared after it is filed, to the extent that it does not prejudice the orderly administration of the liquidation.

(4) Immature claims. Claims that are due except for the passage of time shall be treated as absolute claims are treated, except that where justice requires the court may order them discounted at the legal rate of interest.

Section 5. KRS 304.33-430 is amended to read as follows:

The order of distribution of claims from the insurer's estate shall be as stated in this section. The first fifty dollars ($50) of the amount allowed on each claim in the classes under subsections ***(4)*** [~~(2)~~] to ***(8)*** [~~(5),~~] inclusive, of this section, shall be deducted from the claim and included in the class under subsection ***(10)*** [~~(7)~~] of this section. Claims may not be cumulated by assignment to avoid application of the fifty dollars ($50) deductible provision. Subject to the fifty dollars ($50) deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. ***Once funds are retained by the liquidator and approved by the court, the insurer's estate shall have no further liability to members of that class except to the extent of the retained funds.*** No subclasses shall be established within any class.

(1) Administration costs. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the ***rehabilitation or*** liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

(2) ***Guaranty association expenses. The reasonable expenses of a guaranty association in connection with the administration of a delinquency proceeding, other than allocated loss adjustment expenses, after an order of liquidation is entered or after the liquidator or rehabilitator makes written requests to the guaranty association to incur the administration expenses.***

(3) Wages.

(a) Debts due to employees for services performed, not to exceed one thousand dollars ($1,000) to each employee which have been earned within ***six (6) months*** ~~[one (1) year]~~ before the filing of the petition for liquidation ***or rehabilitation***. Officers shall not be entitled to the benefit of this priority.

(b) ***This*** ~~[Such]~~ priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(4)~~[(3)]~~ Loss and unearned premium claims. Claims by policyholders, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, ***claims for unearned premiums,*** and claims of ***a*** guaranty ***association for covered obligations, including allocated loss adjustment expenses*** ~~[associations or foreign guaranty associations]~~.

(5)~~[(4)]~~ Residual classification. All other claims including claims of the federal or any state or local government, not falling within other classes under this section. ***Claims of attorneys for fees and expenses owed them by an insurer for services rendered in opposing a formal delinquency proceeding including reasonable costs and expenses if allowed by the court as provided in KRS 304.33-180(1). In order to prove claims as provided in 304.33-180(1), the claimant must show that the board of directors of the insurer incurred the fees and expenses based on their best knowledge, information, and belief, formed after reasonable inquiry indicating the opposition was in the best interest of the insurer, was well grounded in fact and was warranted by existing law, and that the opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the litigation*** ~~[Claims, including those of any governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection (7) of this section]~~.

(6) Federal government. Claims of the federal government other than those claims included in subsection (4).

(7) State and local government. Claims of any state or local government for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of the claims shall be postponed to the class of claims under subsection (10) of this section.

(8)~~[(5)]~~ Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment ***the*** ~~[such]~~ weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

(9)~~[(6)]~~ Interest on claims already paid. Interest at the legal rate compounded annually on all claims in the classes under subsections (1) to ***(8)*** ~~[(5)]~~ of this section, inclusive, from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

(10)~~[(7)]~~ Miscellaneous subordinated claims. The remaining claims or portions of claims not already paid, with interest as in subsection ***(9)*** ~~[(6)]~~ of this section:

(a) The first fifty dollars ($50) of each claim in the classes under subsections (2) to ***(8)*** ~~[(5)]~~, inclusive, of this section, subordinated under this section;

(b) Claims under subsection (2) of KRS 304.33-380;

(c) Claims subordinated by KRS 304.33-600;

(d) Claims filed late;

(e) Portions of claims subordinated under subsection ***(5)*** ~~[(4)]~~ of this section; and

(f) Claims or portions of claims, payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

(11)~~[(8)]~~ Preferred ownership claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in subsections ***(9)*** ~~[(6)]~~ and ***(10)*** ~~[(7)]~~ of this section.

(12)~~[(9)]~~ Proprietary claims. The claims of shareholders or other owners.

(a) Upon the declaration of a dividend, the receiver shall apply the amount of the dividend against any indebtedness owed to the insurer by the person entitled to the dividend. There shall be no claim allowed for any deductible charged by a guaranty association or entity performing a similar function.

(b) If any claimant of this state, another state, or foreign country shall be entitled to or shall receive a dividend upon his claim out of a statutory deposit or the proceeds of any bond or other asset located in another state or foreign country, then the claimants shall not be entitled to any further dividend from the receiver until and unless all other claimants of the same class, irrespective of residence or place of the acts or contracts upon which their claims are based, shall have received an equal dividend upon their claims, and after the equalization, the claimants shall be entitled to share in the distribution of further dividends by the receiver, along with and like all other creditors of the same class, wheresoever residing.

Section 6. KRS 304.33-440 is amended to read as follows:

(1) Immediate Access. Within one hundred twenty (120) days of a final determination of insolvency of a company by a court of competent jurisdiction of this state, the liquidator shall make application to the court for approval of a proposal to disburse assets out of ***the*** [~~such~~] company's marshalled assets, from time to time as ***the*** [~~such~~] assets become available, to guaranty associations or foreign guaranty associations having obligations because of the insolvency. ***A final determination of insolvency shall not be deemed to have occurred for purposes of this section until after an order of liquidation has been entered by the court and no further appeals may be taken from the order. The*** [~~Such~~] proposal shall at least include provision for:

(a) Reserving amounts for the payment of the expenses of administration and claims falling within the priorities established in KRS 304.33-430(1) and ***(9)*** [~~(2)~~];

(b) Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;

(c) Equitable allocation of disbursements to each of the associations entitled thereto; and

(d) The securing by the liquidator from each of the associations entitled to disbursements pursuant to paragraph (e) of an agreement to return to the liquidator ***the*** [~~such~~] assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in KRS 304.33-430(1), ***(3), (5), and (6)*** [~~(2) and (3)~~] in accordance with [~~such~~] priorities. No bond shall be required of ***the*** [~~any such~~] association.

(e) The liquidator's proposal ***may*** [~~shall~~] also provide for disbursements to the associations in amounts at least equal to the payments made or to be made thereby for which associations could assert claims against the liquidator, and ***may*** [~~shall~~] further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of ***the*** [~~such~~] payments made or to be made by the association then disbursements ***may*** [~~shall~~] be in the amount of available assets.

(f) Notice of ***the*** [~~such~~] application shall be given to the associations in and to the commissioners of insurance of each of the states in which the company did business. [~~Any such~~] Notice shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, at least thirty (30) days prior to submission of ***the*** [~~such~~] application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with this subsection.

(g) Notwithstanding any provisions to the contrary, the liquidator may retain assets either directly attributable to policies having no guaranty association coverage or, if no assets are attributable to these policies, the uncovered policies' pro rata share of all assets.

(2) Recommended claims. The liquidator shall review all claims duly filed in the liquidation and shall make [~~such~~] further investigation as he deems necessary. He may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court. Unresolved disputes shall be determined under KRS 304.33-400. As often as practicable, he shall present to the court reports of claims against the insurer with his recommendations. The reports shall include the name and address of each claimant, the particulars of the claim and the amount of the claim finally recommended if any. As soon as reasonably possible after the last day for filing claims, he shall present a list of all claims not already reported. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment values and the amounts owed. If the insurer has issued policies on the advance premium plan, the liquidator shall report the persons to whom, according to the records of the insurer, unearned premiums are owed and the amounts owed.

(3) Allowance of claims. The court may approve, disapprove, or modify any report on claims by the liquidator, except that the liquidator's agreements with other parties shall be final and binding on the court on claims settled for $500 or less. No claim under a policy of insurance shall be allowed for an amount in excess of the applicable policy limits.

Section 7. KRS 304.33-600 is amended to read as follows:

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under subsection ***(10)*** [~~(7)~~] of KRS 304.33-430.

Section 8. KRS 304.42-020 is amended to read as follows:

The purpose of this subtitle is to protect policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, {~~and~~} supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing ***the*** {~~such~~} policies or contracts. To provide this protection:

(1) An association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

(2) Members of the association are subject to assessment to provide funds to carry out the purpose of this subtitle; and

(3) The association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

Section 9. KRS 304.42-030 is amended to read as follows:

(1) This subtitle shall provide coverage for the policies and contracts specified in subsection (2) of this section:

  (a) To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under paragraph (b) of this subsection; and

  (b) To persons who are the owners of or certificate holders under ***the*** {~~such~~} policies or contracts, and who:

    1. Are residents; or

    2. Are not residents, but only under the following conditions:

      a. The insurers which issued ***the*** {~~such~~} policies or contracts are domiciled in this state;

      b. ***The*** {~~Such~~} insurers never held a certificate of authority in the states in which ***the*** {~~such~~} persons reside;

      c. ***The*** {~~Such~~} states have associations similar to the association created by this subtitle; and

      d. ***The*** {~~Such~~} persons are not eligible for coverage by ***the*** {~~such~~} associations.

(2) (a) This subtitle shall provide coverage to the persons specified in subsection (1) of this section for direct, nongroup life, health, annuity, and supplemental policies or contracts and for certificates issued under direct group policies and contracts ***issued by member insurers***.

  (b) This subtitle shall not provide coverage for:

    1. Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder;

    2. Any policy or contract of reinsurance, unless assumption certificates have been issued;

    3. Any portion of a policy or contract to the extent that the rate of interest on which it is based:

      a. Averaged over the period of four (4) years prior to the date on which the association becomes obligated with respect to ***the*** {~~such~~} policy or contract, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's corporate bond yield average averaged for that same four (4) year period or for ***the*** {~~such~~} lesser period if the policy or contract was issued less than four (4) years before the association became obligated; and

      b. On and after the date on which the association becomes obligated with respect to ***the*** {~~such~~} policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's corporate bond yield average as most recently available;

    4. Any plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that ***the*** {~~such~~} plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association, or similar entity under:

      a. A multiple employer welfare arrangement as defined in 29 U.S.C. Section 1144;

      b. A minimum premium group insurance plan;

      c. A stop-loss group insurance plan; or

      d. An administrative services only contract;

    5. Any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of ***the*** {~~such~~} policy or contract;

    6. Any policy or contract issued in this state by a member insurer at a time when it did not have a certificate of authority to issue ***the*** {~~such~~} policy or contract in this state; and

    7. Any unallocated annuity contract.

(3) The benefits for which the association may become liable shall in no event exceed the lesser of:

  (a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; {~~or~~}

(b) With respect to any one (1) life, regardless of the number of policies or contracts:

1. Three hundred thousand dollars ($300,000) in life insurance death benefits, but not more than one hundred thousand dollars ($100,000) net cash surrender and net cash withdrawal values for life insurance;
2. One hundred thousand dollars ($100,000) in health insurance benefits, including any net cash surrender and net cash withdrawal values;
3. One hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.

Section 10. KRS 304.42-060 is amended to read as follows:

(1) There is created a nonprofit legal entity to be known as the Kentucky Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under KRS 304.42-100 and shall exercise its powers through a board of directors established under KRS 304.42-070. For purposes of administration and assessment, the association shall maintain ***four (4)*** [~~three (3)~~] accounts:

(a) The health insurance account;

(b) The life insurance account; [~~and~~]

(c) The annuity account.

(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

Section 11. KRS 304.33-360 is amended to read as follows:

(1) Deadline for filing. Proof of all claims must be filed with the court in the form required by KRS 304.33-370 on or before the last day for filing specified in the notice required under KRS 304.33-250, except that proof of preferred ownership claims and proprietary claims under subsections ***(11)*** [~~(8)~~] and ***(12)*** [~~(9)~~] of KRS 304.33-430, need not be filed at all, and proof of claims for unearned premiums and claims for cash surrender values or other investment values in life insurance and annuities need not be filed unless the liquidator expressly so requires.

(2) Excused late filings. For good cause shown, the liquidator shall recommend, and the court shall permit, a claimant making a late filing to share in dividends, whether past or future, as if he were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

(a) That existence of a claim was not known to the claimant and that he filed within thirty (30) days after he learned of it;

(b) That a claim for unearned premiums or for cash surrender values or other investment values in life insurance or annuities which was not required to be filed was omitted from the liquidator's recommendations to the court under KRS 304.33-440, and that it was filed within thirty (30) days after the claimant learned of the omission;

(c) That a transfer to a creditor was avoided under KRS 304.33-290 to 304.33-330, inclusive, or was voluntarily surrendered under KRS 304.33-320 and that the filing satisfies the conditions of KRS 304.33-320;

(d) That valuation under KRS 304.33-420 of security held by a secured creditor shows a deficiency, which is filed within thirty (30) days after the valuation; and

(e) That a claim was contingent and became absolute, and was filed within thirty (30) days after it became absolute.

(3) Unexcused late filings. The liquidator may consider any claim filed late which is not covered by subsection (2) of this section, and permit it to receive dividends, other than the first dividend, which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive, at each distribution, the same percentage of the amount allowed on his claim as is then being paid to other claimants of the same priority plus the same percentage of the amount allowed on his claim as is then being paid to claimants of any lower priority. This shall continue until his claim has been paid in full.

Section 12. Whereas case law gives federal tax claims higher priority than intended under Kentucky law, and whereas persons with unallocated annuities such as deferred compensation plans should be afforded the same protection as persons with allocated annuities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Banking and Insurance reported **SB 361** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 361, AN ACT relating to liability self-insurance groups.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBTITLE 46 OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS

CREATED TO READ AS FOLLOWS:

The purpose of this subtitle is to establish minimum standards for liability self-insurance groups to assure that such groups are providing adequate coverage for professional or public liability risks. Except as specifically provided in this subtitle no other provision of KRS Chapter 304 shall apply to liability self-insurance groups.

SECTION 2. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) "Administrator" means an individual, partnership, corporation, association, or other legal entity engaged by a liability self-insurance group's board of trustees to carry out the policies established by the group's board of trustees and to provide day-to-day management of the group.

(2) "Bona fide association" as used in Section 3 of this Act shall mean an association which has a substantial non-insurance purpose or has other characteristics of stability in finances and membership.

(3) "Commissioner" means the commissioner of the Department of Insurance.

(4) "Deceptive" means an act, practice, or statement which has the tendency or capacity to deceive, without regard to whether there is an intent to deceive or whether any person has suffered loss or injury as a result of the act, practice, or statement.

(5) "Governmental entity" means the Commonwealth of Kentucky, other states, or the United States, their political subdivisions, municipal corporations, or public agencies.

(6) "Insolvent" or "insolvency" means the inability of a liability self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liability over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.

(7) "Liability self-insurance group" means a group described in Section 3 of this Act.

(8) "Person" includes, but is not limited to, any individual, partnership, association, trust, or corporation.

(9) "Qualified actuary" means a member of the American Academy of Actuaries or a fellow of the Casualty Actuarial Society.

(10) "Service company" means a person or entity which provides services not provided by the administrator, including, but not limited to, claims adjustment, safety engineering, compilation of statistics in preparation of contribution and assessments, loss, and tax reports, preparation of other required self-insurance reports, development of members' contributions, assessments, and fees, and administration of a claim fund.

(11) "Unfair" refers to an act, practice, or statement which is unconscionable.

(12) "Agent" means any person directly or indirectly associated with such organization who engages in solicitation or enrollment of persons for profit or pecuniary gain in a liability self-insurance group.

SECTION 3. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This subtitle applies to a group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations (as defined in KRS Chapter 271B), or the members of a bona fide association, including liability self-insurance groups composed of any number of members, who join together to self-insure against professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group. Any self-insurance group operating under a certificate of filing as of the date of enactment of this Act shall have one (1) year from the date of enactment of this Act to comply with all provisions of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person shall in this state be, act as, or hold himself out as a liability self-insurance group unless he holds a certificate of filing from the commissioner. All certificates of filing issued by the commissioner prior to the effective date of this section shall remain in full force and effect unless revoked or suspended by the commissioner pursuant to Section 22 of this Act.

SECTION 5. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A proposed liability self-insurance group shall file with the commissioner an application for a certificate of filing accompanied by a non-refundable filing fee of five dollars ($5). Each application for a certificate of filing shall be submitted to the commissioner upon a form prescribed by him and shall set forth or be accompanied by:

(1) The group's name, location of its principal office, date of organization, name and address of each member (if known at the time of application; if unknown, a description of the group to be solicited for membership), and identification of its fiscal year;

(2) A copy of the articles of association;

(3) A copy of agreements with the administrator and with any service company;

(4) A copy of the by-laws of the proposed group;

(5) A copy of the agreement between the group and each member jointly and severally binding the group and each member thereof to comply with the provisions of this subtitle and the decision of the trustees for operation of the liability self-insurance group. If the liability self-insurance group is composed of governmental entities and received its certificate of filing prior to the enactment of this section, the agreement may provide that it does not jointly and severally bind group members to pay the debts of others. Liability self-insurance groups may limit group members' joint and several liability and the limits shall be established in terms of members' annual contributions;

(6) Designation of the initial board of trustees and administrator; and

(7) The address where books and records of the group will be maintained at all times.

SECTION 6. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Upon receipt of an application for issuance for a certificate of filing, the commissioner shall issue or deny the same. Issuance of a certificate of filing shall be granted only if the commissioner finds that the applicant has complied with Section 5, has paid the application fee, and the commissioner is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the liability self-insurance group are competent, trustworthy, and possess good reputation;

(2) The liability self-insurance group is financially responsible and may reasonably be expected to meet its obligations to participants and prospective participants. In making this determination, the commissioner may consider:

- *(a) The adequacy of working capital;*
- *(b) Any agreement with an insurer, a government, or any other organization for insuring the payment of liability claims or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the self-insurance group; and*
- *(c) Compliance with Section 7, as a guarantee that the obligations will be duly performed.*

SECTION 7. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) This section applies to a group applying for and holding a certificate of filing as a liability self-insurance group.

(2) To obtain and to maintain its certificate of filing a liability self-insurance group shall have sufficient financial strength to pay all public or professional liabilities covered by the group, including known claims and expenses and incurred but not reported claims and expenses.

(3) The commissioner, if not satisfied with the financial strength of a liability self-insurance group, may require any or all of the following of a liability self-insurance group:

- *(a) Security in the form and amount prescribed by the commissioner as follows:*
  - *1. A surety bond issued by a corporate surety authorized to transact business in the Commonwealth of Kentucky; or*
  - *2. Any financial security endorsement issued as part of an acceptable excess insurance contract issued by an authorized insurer may be used to meet all or part of the security requirement. The bond or financial security endorsement shall be for the benefit of the insured creditors solely to pay claims and associated expenses and shall be payable upon the failure of the group to pay professional or public liability claims it is legally obligated to pay. The commissioner may establish and adjust the requirements for the amount of security based on differences among groups in their size, types or business, years in existence, or other relevant factors.*
- *(b) Specific and aggregate excess insurance in a form, in an amount, and issued by an insurer acceptable to the commissioner.*
- *(c) A fidelity bond for the administrator and a fidelity bond for the service company in forms and amounts prescribed by the commissioner. The commissioner may require the service company providing claim service to furnish a performance bond in a form and amount prescribed by the commissioner.*

SECTION 8. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A liability self-insurance group shall notify the commissioner immediately of any change in the information required to be filed under Section 5 or in the manner of its compliance with Section 7 of this Act.

SECTION 9. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The funds of a liability self-insurance group shall be invested only in securities or other investments permitted by Subtitle 7 of this chapter, or such other securities or investments as the commissioner may permit by administrative regulation.

SECTION 10. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall promulgate reasonable administrative regulations as are necessary to provide for the licensing of agents appointed or sponsored by the liability self-insurance group and the termination or revocation of such license.

SECTION 11. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner or any person authorized by him shall have power to examine the financial condition, affairs, and management of any liability self-insurance group subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any group, or any person in relation to its affairs, transactions, or conditions. He shall so examine each liability self-insurance group subject to the provisions of this subtitle not less frequently than every four (4) years. Information and other data obtained through the examination shall be subject to the provisions of KRS 304.2-210 to 304.2-290.

SECTION 12. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any liability self-insurance group accepting a certificate of filing pursuant to this subtitle is deemed to have appointed the Secretary of State as its attorney to receive service of legal process issued against it in Kentucky. This appointment shall be irrevocable, shall bind any successor in interest, and shall remain in effect as long as there is in this state any professional or public liabilities.

SECTION 13. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A certificate of filing remains in effect until terminated at the request of the group or suspended or revoked by the commissioner pursuant to Section 22 of this Act.

(2) The commissioner shall not grant the request of the liability self-insurance group to terminate its certificate of filing unless the group has filed with the commissioner a statement describing what arrangements, if any, have been made to pay obligations of the group, including both known claims and expenses and incurred but not reported claims and expenses.

(3) Subject to filing with the commissioner, a liability self-insurance group may merge with another liability self-insurance group. As a result of any merger, the resulting liability self-insurance group shall assume in full all obligations of the constituent groups.

SECTION 14. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each group shall be operated by a board of trustees which shall consist of not less than two (2) persons selected in the manner prescribed by the liability self-insurance group or by other laws of the Commonwealth. Except for liability self-insurance groups formed by governmental entities, the trustees shall not be officers, employees, or agents of an administrator or servicing organization. All trustees shall be residents of Kentucky or officers of corporations authorized to do business in Kentucky. The trustees shall have the authority to administer the operations of the liability self-insurance group, such as assuring that there is adequate funding to cover professional or public liabilities, assuring that all claims are paid promptly, and that all necessary precautions are taken to safeguard the assets of the group.

(2) The board of trustees shall:

(a) Maintain responsibility for all moneys collected or disbursed from the group;

(b) Maintain minutes of its meetings and make the minutes available to the commissioner; and,

(c) Designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the group, and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.

(3) The board of trustees shall not:

(a) Extend credit to individual group members for payment of contributions or assessments, except pursuant to payment plans filed with the commissioner; or

(b) Permit the loan of any moneys to, or borrow any moneys from, the group or in the name of the group. However, a liability self-insurance group formed by governmental entities may borrow moneys in the name of the group.

(4) In its discretion, the liability self-insurance group may refer to its trustees as directors. If this is done, the provisions of this subtitle referring to trustees shall be construed as referring to directors.

SECTION 15. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An employer joining a liability self-insurance group after the group has been issued a certificate of filing shall submit an application for membership to the board of trustees or its administrator and enter into the indemnity agreement. Membership shall take effect no earlier than each member's date of application. The application for

membership and its approval shall be maintained as permanent records of the board of trustees.

(2) Individual members of a liability self-insurance group shall be subject to cancellation by the group pursuant to the bylaws of the group. In addition, individual group members may elect to terminate their participation in the group.

(3) A liability self-insurance group shall pay all professional and public liabilities which are covered under the terms, conditions, and exclusions of the group's evidence of coverage for which each member incurs liability during its period of membership. A member who elects to terminate its membership or is canceled by a group remains liable for professional or public liability obligations which were incurred during the canceled or terminated group members' period of membership. A group member is not relieved of its professional or public liabilities incurred during its period of membership except through payment by the group or the member of liabilities.

(4) The insolvency or bankruptcy of a group member does not relieve the liability self-insurance group or any group member of liability for the payment of professional or public liabilities which are covered under the terms, conditions, and exclusions of the group's evidence of coverage and incurred during the insolvent or bankrupt group member's period of membership.

SECTION 16. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2), no service company or its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect interest in, an administrator. No administrator or its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect financial interest in, a service company.

(2) Liability self-insurance groups formed by public entities may create public administrator and service companies to administer or service the group's self-insurance program. These administrator and service companies may have employees, directors, or officers in common if the board of directors for the public liability self-insurance group has direct authority over these public companies and the employees of the companies are public employees.

SECTION 17. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All liability self-insurance groups shall file with the commissioner a statement of financial condition audited by an independent certified public accountant on or before one hundred and twenty (120) days from the end of the group's fiscal year for the immediately preceding fiscal year. The financial statement shall be in a form approved by the commissioner and shall include:

(a) Actuarially appropriate reserves for:

1. Known claims and expenses associated therewith.

2. Claims incurred but not reported and any expenses associated therewith.

3. Unearned contributions and assessments.

4. Bad debts, which reserves shall be known as liabilities.

(b) An actuarial opinion by a qualified actuary and a supporting reserve study regarding reserves for known claims and expenses associated therewith. The reserve study shall include documentation sufficient for another actuary practicing in the same field to evaluate the work. The documentation shall describe clearly the sources of data, material assumptions, and methods.

(2) No person shall make a deceptive statement or fail to correct a misstatement in connection with the solicitation of membership of a group.

(3) The financial statements required by this section shall be completed in accordance with administrative regulations promulgated by the commissioner.

SECTION 18. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Liability self-insurance groups shall file with the commissioner their rates, underwriting guidelines, evidence of coverage, and any changes therein. The filing shall be accompanied by a filing fee of five dollars ($5) per filing.

SECTION 19. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Liability self-insurance groups shall establish contribution and assessment payment plans.

SECTION 20. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every member of a liability self-insurance group shall receive written evidence of coverage by the group.

(2) All evidences of coverage issued pursuant to this section shall contain coverage terms, conditions, and exclusions.

(3) All evidences of coverage issued pursuant to this section, other than those issued by liability self-insurance groups

formed by governmental entities which do not have joint and several liability, shall contain the following disclosure in prominent, contrasting type: THIS COVERAGE HAS BEEN PLACED WITH A LIABILITY SELF-INSURANCE GROUP WHICH HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. CLAIMS AGAINST GROUP MEMBERS ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION. GROUP MEMBERS MAY BE ASSESSED IN THE EVENT OF INSOLVENCY OF THE LIABILITY SELF-INSURANCE GROUP.

(4) All evidences of coverage issued pursuant to this section by liability self-insurance groups formed by governmental entities which have joint and several liability, shall contain the following disclosure in prominent, contrasting type: THIS COVERAGE HAS BEEN PLACED WITH A LIABILITY SELF-INSURANCE GROUP WHICH HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. CLAIMS AGAINST GROUP MEMBERS ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION.

SECTION 21. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the liability self-insurance group is formed by governmental entities and coverage is provided for motor vehicle liability, the group is not required to comply with administrative regulations promulgated pursuant to subsection (7) of KRS 304.39-080, unless its members elect to become obligated governments for the payment of basic reparation benefits or are required by law to provide basic reparation benefits, in which case the group shall provide the security required by administrative regulations promulgated pursuant to subsection (7) of KRS 304.39-080.

(2) If a liability self-insurance group formed by entities other than governmental entities chooses to provide coverage for motor vehicle liability and basic reparation benefits, its application shall be analyzed under both this subsection and administrative regulations promulgated pursuant to subsection (7) of KRS 304.39-080 and the authority to self-insure motor vehicle liability and basic reparation benefits coverages shall not be granted unless the group complies with this subsection and administrative regulations promulgated pursuant to subsection (7) of KRS 304.39-080.

(3) All applications for a certificate of filing shall state whether motor vehicle liability or basic reparation benefits coverages are to be covered by the group.

SECTION 22. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may suspend or revoke any certificate of filing issued to a liability self-insurance group under this subtitle if he finds that any of the following conditions exist:

(a) The liability self-insurance group is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under this subtitle, unless amendments to the submissions have been filed with and approved by the commissioner;

(b) The liability self-insurance group is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to participants or prospective participants;

(c) The liability self-insurance group, or any person at its direction, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

(d) The liability self-insurance group has engaged in any unfair or deceptive practices under its certificate of filing;

(e) The liability self-insurance group has failed to correct a violation of this subtitle or the administrative regulations adopted thereunder, within a reasonable time period established by the commissioner in administrative regulations.

(2) A certificate of filing shall be suspended or revoked only after compliance with the hearing procedure set forth in KRS 304.2-310 to 304.2-370.

(3) When a certificate of filing of a liability self-insurance group is suspended, the group shall not, during the period of suspension, enroll any new participants and shall not engage in any advertising or solicitation.

(4) If the certificate of filing of a liability self-insurance group is revoked, the group shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation. The commissioner may, by written order, prevent further operation of the group as he may find to be in the best interest of the participants, to the end that the participants will be afforded the greatest practical opportunity to obtain liability coverage elsewhere. If the commissioner permits further operation, the liability self-insurance group shall continue to collect the contributions and assessments required of participants.

SECTION 23. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate reasonable administrative regulations not inconsistent with the provisions of this subtitle that he deems necessary for the proper administration of this subtitle. Nothing in this subtitle nor any administrative regulation adopted under the authority of this subtitle shall require any liability self-insurance group formed by public entities or its members, to take any action in violation of the Constitution of the Commonwealth of Kentucky.

SECTION 24. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No person shall make any deceptive statement or omit material facts in connection with solicitation for membership in a liability self-insurance group.

(2) Liability self-insurance groups shall not engage in unfair claims settlement practices and shall:

(a) Respond to claimant inquiries within fifteen (15) working days.

(b) Respond to Department of Insurance inquiries concerning claims within fifteen (15) working days.

(c) Complete the investigation of losses within thirty (30) days from the date the group has notice of a loss. An additional thirty (30) day period may be taken if reasonably necessary and upon written notice to the claimant.

(d) Not continue negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney until the claimant's rights may be affected by a statute of limitations, a policy, or contract time limit without giving the claimant written notice at least sixty (60) days before the date on which the time limit shall expire and affect the claimant's rights.

(e) Not commit any other unfair or deceptive act or practice relating to claim settlement.

(3) Liability self-insurance groups shall not commit unfair or deceptive acts or practices under its certificate of filing from the commissioner.

SECTION 25. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the assets of a liability insurance group are at any time insufficient to enable the group to discharge its legal liabilities, other obligations, and to maintain the required reserves under this subtitle, the group shall immediately levy an assessment upon its members for the amount necessary to make up the deficiency.

(2) If there is a deficiency in any fund year, the deficiency shall be made up immediately, from the following:

(a) Surplus from a fund year other than the current fund year after prior notice of the transfer has been given to the commissioner;

(b) Administrative funds;

(c) Assessment of membership; or

(d) Alternate methods as the commissioner may direct or approve.

(3) If a liability self-insurance group fails to assess its members within thirty (30) days to make up a deficit, the commissioner shall order it to do so. This subsection shall not apply to liability self-insurance groups formed by governmental entities which do not have joint and several liability.

(4) If a liability self-insurance group fails to make the required assessment of its members within thirty (30) days after the commissioner orders it to do so, or if the deficiency is not fully made up within sixty (60) days after the date on which the assessment is made, or within a longer period of time as may be permitted by the commissioner, the group shall be determined to be insolvent.

SECTION 26. A NEW SECTION OF SUBTITLE 46 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) After a hearing or upon agreement by the liability self-insurance group, the commissioner may suspend or revoke the certificate of filing of a liability self-insurance group, impose a civil penalty of up to five thousand dollars ($5,000) per violation on a liability self-insurance group, or both, for:

(a) Violations of this subtitle or administrative regulations adopted thereunder;

(b) Obtaining a certificate of filing by unfair or deceptive means;

(c) Operating in a financially hazardous manner;

(d) Misappropriation, conversion, illegal withholding, or refusal to pay over upon proper demand any moneys that belong to a member, an employee of a member, or a person otherwise entitled thereto by the group or its administrator; or

(e) Unfair or deceptive business practices.

(2) The commissioner, in his discretion and without advance notice or a hearing thereon, may suspend or revoke the certificate of filing of any liability self-insurance group upon the commencement of the following proceedings:

  (a) Receivership;

  (b) Conservatorship;

  (c) Rehabilitation; or

  (d) Other delinquency proceedings.

Section 27. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) ~~[A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations (as defined in KRS Chapter 271B), or the members of a bona fide association, composed of any number of members, who join together to self insure against professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group and who comply with the following conditions:~~

  ~~(a) Establishment of a professional or public liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or public liability risks;~~

  ~~(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group; and~~

  ~~(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.~~

~~(7)~~] Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

  (a) A "qualified organization" means one which is:

    1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or

    2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or

    3. Exempt as a publicly-owned or nonprofit, privately-endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

  (b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

Section 28. KRS 304.45-010 is amended to read as follows:

(1) The purpose of this subtitle is to regulate the formation or operation of risk retention groups and purchasing groups in the state formed pursuant to the provisions of the Product Liability Risk Retention Act of 1981 (P.L. 97-45) and the Liability Risk Retention Act of 1986 (P.L. 99-563), 15 U.S.C. sec. 3901 et seq., to the extent permitted by such laws, for the protection of the public.

(2) The provisions of KRS 304.45-010 to KRS 304.45-150 shall not apply to a self-insurance pool, self-insurance fund, or other self-insurance association, including those considered to be tax exempt under the Internal Revenue Code and those organized under KRS Chapters 65, 66, or 67, ~~[KRS 304.1-120(6),]~~ KRS 342.350, or other enabling legislation.

The Committee on Judiciary reported **SB 55**, with Committee Substitute attached thereto, **SB 222**, with Committee Substitute attached thereto, **SB 278**, with Committee Substitute attached thereto, **SB 319**, with Committee Substitute attached thereto, and **SB 337** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 55, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 517 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of operating a sham or front company when he knowingly:

(a) Establishes;

(b) Assists in the establishment of;

(c) Operates; or

(d) Assists in the operation of;

a sham or front company.

(2) Operating a sham or front company is a Class D felony.

Section 2. KRS 517.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(2) "Business record" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(3) "Enterprise" means any entity of one (1) or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental activity.

(4) "Fiduciary" means a trustee, guardian, executor, administrator, receiver and any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(5) "Mislabeled" means:

(a) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usuage; or

(b) Represented as being another person's product, though otherwise labeled accurately as to quality or quantity.

(6) "Sham or front company" means any business established or in existence which falsely represents that business to be a minority business enterprise, or disadvantaged business enterprise, as defined in 79 CFR 23.5 or 15 CFR 1400.2, operated or operating for the purpose of obtaining funds, contracts, subcontracts, services, or other benefits from any local government, local government agency, or special district of this Commonwealth from the Commonwealth, or any state government agency or public corporation of this Commonwealth, or from the United States government or any federal government agency, or private corporation, enterprise, or foundation.

The Committee Substitute to **SB 55** is as follows:

SB 55, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 517 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of operating a sham or front company when he knowingly:

(a) Establishes;

(b) Assists in the establishment of;

(c) Operates; or

(d) Assists in the operation of;

a sham or front company.

(2) Operating a sham or front company is a Class D felony.

Section 2. KRS 517.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(2) "Business record" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(3) "Enterprise" means any entity of one (1) or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental activity.

(4) "Fiduciary" means a trustee, guardian, executor, administrator, receiver and any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(5) "Mislabeled" means:

(a) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or

(b) Represented as being another person's product, though otherwise labeled accurately as to quality or quantity.

(6) "Sham or front company" means any business established or in existence which falsely represents that business to be a minority business enterprise, or disadvantaged business enterprise, as defined in 79 CFR 23.5 or 15 CFR 1400.2, operated or operating for the purpose of obtaining funds, contracts, subcontracts, services, or other benefits from any local government, local government agency, or special district of this Commonwealth from the Commonwealth, or any state government agency or public corporation of this Commonwealth, or from the United States government or any federal government agency.

SB 222, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a moving motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a moving motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a moving motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a moving motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony;

(b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel or other person exercising custodial control or supervision of the child;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody, however, if the case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child

with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(8) In the event a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court shall have exclusive, original jurisdiction of the new offense.

(9) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce orders previously issued by the court.

(10) Nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the cabinet in the placement, care, or treatment of a child committed to the cabinet; or to require the cabinet to perform, or to refrain from performing, any specific act in the placement, care or treatment of any child committed to the cabinet[~~, provided the District Court shall have jurisdiction to review a dispositional order as provided in KRS Chapters 620, 630, 635 and 645 and to make orders pursuant to KRS 635.090~~].

(11) In addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(12) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 USC Sec. 675(5)(c), until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

(1) If a child has been removed from the home and placed in the custody of the cabinet, a judge of the District Court shall conduct a dispositional review hearing no later than eighteen (18) months after custody is given to the cabinet, and annually thereafter if custody and out-of-home placement continues, to determine the future status of the child. The court shall address the following areas:

(a) If parental rights have not been terminated, whether the child should be returned to the parent;

(b) Whether the child should continue in out-of-home care for a specified period of time;

(c) Whether the child should be placed for adoption; and

(d) Whether special circumstances indicate that the child's needs can best be met by continuation in out-of-home care on a permanent or long-term basis.

(2) The cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section. The court shall set a time for the hearing and notify the child's parent and the cabinet.

(3) The cabinet shall present evidence to the court concerning the care and progress of the child since the last dispositional hearing, including the following:

(a) The length of time the child has been committed to the cabinet;

(b) The number, location, and date for each placement during the total period of the child's commitment;

(c) A description of the services and assistance provided to the parent or arranged by the cabinet since the last case permanency plan or case progress report, and the results achieved;

(d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;

(e) The familial and institutional barriers to:

1. Returning the child to the home;

2. Ending the commitment of the child to the cabinet; and

3. Delivery of appropriate services needed by the child;

(f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of sixteen (16) years;

(g) An evaluation of the child's current placement and services provided to the child;

(h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement; and

(i) Recommendations as to the permanency goal for the child.

(4) The child's parent may present any evidence relevant to the determination of a permanency goal for the child.

(5) Upon conclusion of the hearing the court shall make a written determination regarding a plan of transitional

independent living services if the child has reached the age of sixteen (16) years, and the most appropriate permanency goal if the child has not reached the age of sixteen (16) years.

The Committee Substitute to **SB 222** is as follows:

SB 222, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a moving motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a moving motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a moving motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a moving motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony;

(b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel or other person exercising custodial control or supervision of the child;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody, however, if the case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(8) In the event a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court shall have exclusive, original jurisdiction of the new offense.

(9) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce orders previously issued by the court.

(10) Nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the cabinet in the placement,

care, or treatment of a child committed to the cabinet; or to require the cabinet to perform, or to refrain from performing, any specific act in the placement, care or treatment of any child committed to the cabinet[~~, provided the District Court shall have jurisdiction to review a dispositional order as provided in KRS Chapters 620, 630, 635 and 645 and to make orders pursuant to KRS 635.090~~].

(11) In addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(12) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 USC Sec. 675(5)(c), until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

(1) If a child has been removed from the home and placed in the custody of the cabinet, a judge of the District Court shall conduct a dispositional review hearing no later than eighteen (18) months after custody is given to the cabinet, and annually thereafter if custody and out-of-home placement continues, to determine the future status of the child. The court shall address the following areas:

- *(a) If parental rights have not been terminated, whether the child should be returned to the parent;*
- *(b) Whether the child should continue in out-of-home care for a specified period of time;*
- *(c) Whether the child should be placed for adoption; and*
- *(d) Whether special circumstances indicate that the child's needs can best be met by continuation in out-of-home care on a permanent or long-term basis.*

(2) The cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section. The court shall set a time for the hearing and notify the child's parent and the cabinet.

(3) The cabinet shall present evidence to the court concerning the care and progress of the child since the last dispositional hearing, including the following:

- *(a) The length of time the child has been committed to the cabinet;*
- *(b) The number, location, and date for each placement during the total period of the child's commitment;*
- *(c) A description of the services and assistance provided to the parent or arranged by the cabinet since the last case permanency plan or case progress report, and the results achieved;*
- *(d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;*
- *(e) The familial and institutional barriers to:*
  - *1. Returning the child to the home;*
  - *2. Ending the commitment of the child to the cabinet; and*
  - *3. Delivery of appropriate services needed by the child;*
- *(f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of sixteen (16) years;*
- *(g) An evaluation of the child's current placement and services provided to the child;*
- *(h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement; and*
- *(i) Recommendations as to the permanency goal for the child.*

(4) The child's parent may present any evidence relevant to the determination of a permanency goal for the child.

(5) Upon conclusion of the hearing the court shall make a written determination regarding a plan of transitional independent living services if the child has reached the age of sixteen (16) years, and the most appropriate permanency goal if the child has not reached the age of sixteen (16) years.

Section 3. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing may:

(1) Order the child to make restitution or reparation to any injured person to *the* [~~such~~] extent, in *the* [~~such~~] sum and upon *the* [~~such~~] conditions [~~as~~] the court determines; *or*

(2) Place the child on probation or under supervision in his own home or in a suitable home or boarding home, upon [~~such~~] conditions [~~as~~] the court shall determine. A child [~~so~~] placed on probation or supervision shall be subject to the visitation

and supervision of a probation officer or an employee of the cabinet. A child [~~so~~] placed on probation or supervision shall remain subject to the jurisdiction of the court until he becomes eighteen (18) years of age, unless he is discharged prior thereto by the court, except that if a person is placed on probation or supervision after he reaches the age of seventeen (17) years and six (6) months, [~~such~~] probation or supervision shall be for a period not to exceed one (1) year; ***or***

(3) Commit the child to the custody or guardianship of the cabinet or of a child-caring facility or a child-placing agency authorized to care for ***the*** [~~such~~] children, or place the child under the custody and supervision of a suitable person. All orders of commitment may include [~~such~~] advisory recommendations [~~as~~] the court may deem proper in the best interests of the child and of the public. ***The*** [~~Such~~] commitment or placement shall be until the age of eighteen (18), subject to the power of the court to terminate the order and discharge the child prior thereto, except that if ***the*** [~~such~~] commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, ***the*** [~~such~~] commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the cabinet, may authorize an extension of commitment up to age twenty-one (21) to permit the cabinet to assist the child in establishing independent living arrangements; or

(4) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility or juvenile holding facility in accordance with KRS 15A.200 for a period of time not to exceed thirty (30) days***;*** ***or***

(5) Any combination of the dispositions listed above.

SB 278, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.021 is amended to read as follows:

(1) The Circuit Court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child and issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so.

(2) The action shall be brought in Circuit Court in the county in which the child resides.

(3) The Circuit Court shall grant noncustodial parental visitation rights to the grandparent of a child if the parent of the child who is the son or daughter of the grandparent is deceased and the grandparent has assumed the financial obligation of child support owed by the deceased parent, unless the court determines that the visitation is not in the best interest of the child. If visitation is not granted, the grandparent shall not be responsible for child support.

The Committee Substitute to **SB 278** is as follows:

SB 278, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.021 is amended to read as follows:

(1) The Circuit Court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child and issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so.

(2) The action shall be brought in Circuit Court in the county in which the child resides.

(3) The Circuit Court may grant noncustodial parental visitation rights to the grandparent of a child if the parent of the child who is the son or daughter of the grandparent is deceased and the grandparent has assumed the financial obligation of child support owed by the deceased parent, unless the court determines that the visitation is not in the best interest of the child. If visitation is not granted, the grandparent shall not be responsible for child support.

SB 319, AN ACT relating to interpreters in judicial and administrative proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 30A.400 is amended to read as follows:

(1) [~~Any judge of any court may appoint an interpreter for any party, witness, or for any other appropriate individual in any matter properly before the court over which he presides and may authorize payment for an interpreter out of the State Treasury.~~

~~(2)~~] If a person has been detained in police custody or has been arrested, an interpreter shall be provided prior to any interrogation or taking of a statement from the person if the court determines he meets the criteria set forth in KRS 30A.410.

(2)[~~(3)~~] Any statement made by a person who is entitled to the services of an interpreter under subsection ***(1)***[~~(2)~~] of this section to a law enforcement officer may be used as evidence against that person only if the statement was made, offered, or elicited in the presence of a qualified interpreter. This subsection shall not deny a person the right to make a voluntary confession.

(3) If the eligibility of the individual for an interpreter is challenged, the judge may, on good cause shown, hold a hearing to determine the bona fide need for interpreter services.

(4) ~~[If the judge, or any other person, believes that a person claiming to be entitled to an interpreter may not actually be deaf or hard of hearing, unable to communicate in English, or otherwise not entitled to the services, the judge may, on good cause shown, hold a hearing to determine the extent of the person's handicap or disability and the bona fide need for interpreting services.~~

~~(5)]~~ If it is determined that the person is not entitled to these services***,*** no portion of KRS 30A.425 to 30A.435 shall apply to him.

Section 2. KRS 30A.405 is amended to read as follows:

(1) Any person appointed as interpreter ***pursuant to this chapter*** ~~[for any matter before the Court of Justice]~~ shall be qualified by training or experience ***to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary*** ~~[for the interpreting function which he is to discharge and shall meet, where applicable, all requirements established for the position]~~.

(2) The Supreme Court ***shall*** ~~[may]~~ prescribe standards***, such as national certification,*** for appointment, qualifications, duties, and other matters relating to interpreters. In the area of providing interpreters for persons who are deaf or hard of hearing as described under KRS 30A.410(1)(a), the standards ***shall*** ~~[may]~~ be promulgated after consulting with the Kentucky ***Commission on the Deaf and Hard of Hearing, the Kentucky*** Registry of Interpreters ***for*** ~~[of]~~ the Deaf***,*** and the Kentucky ***Association of the Deaf*** ~~[School for the Deaf]~~.

(3) These rules, regulations, and standards shall be administered by the Administrative Office of the Courts.

Section 3. KRS 30A.410 is amended to read as follows:

(1) ***The court in any matter, criminal or civil, shall appoint*** ~~[At any stage of any criminal, juvenile, or mental inquest case, or any grand jury proceeding, including probation and parole proceedings,]~~ a qualified interpreter or interpreters, to be paid out of the State Treasury, ~~[shall be provided]~~ for the following categories of persons***,*** whether they are parties***, jurors,*** or witnesses:

   (a) Persons who because of deafness or hard of hearing***:*** ~~[have difficulty in readily understanding or communicating in the written or spoken English language;]~~

      1. Use sign language, such as pidgin, signed English, American Sign Language, or gestures; or

      2. Are oral/aural and use interpreters and assistive technology,

      as their primary mode of communication;

   (b) Persons who cannot communicate in English; and

   (c) Any other person who has, in the opinion of the court, another type of disability which will prevent him from properly understanding the nature of the proceedings or substantially prejudice his rights.

(2) Upon request of the person for whom the interpreter is appointed, or on the court's own motion, an interpreter may be removed for inability to communicate with the person, or if for reasonable cause another interpreter is so desired by the person for whom the interpreter is appointed, or because the services of an interpreter are not desired by the person. ~~[If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether the interpreter is "qualified" within the meaning set forth under KRS 30A.405.~~

~~(3) For the purposes of KRS 30A.400 to 30A.435, the following terms shall mean:~~

   ~~(a) "Mental inquest" means any hearing or proceeding in which a person included in subsection (1) of this section, is involved which is held to determine that person's sanity, mental capacity, or developmental level, for legal purposes whether held to commit, change the circumstances of commitment, or to release that person.~~

   ~~(b) An "interpreter", in case of an individual coming within the protection of this section, means a person who translates written and oral communications or interprets communication as to effectively transmit information to the individual.]~~

Section 4. KRS 30A.415 is amended to read as follows:

(1) ***In criminal or civil cases, the Court of Justice shall be responsible for payment, including ordinary and reasonable expenses, for interpretive services for court appearances*** ~~[In any civil case, upon approval by the court, an interpreter may be appointed. The cost for the interpreter's services shall be taxed as costs against the losing party at the conclusion of the suit, provided, however, that the judge may compensate the interpreter out of the State Treasury if such is suggested by considerations of fairness and justice]~~.

(2) ***In any case in which the interpreter is providing services out of court, even though that service relates to a pending court case, the agency requiring the services of the interpreter shall be responsible for payment*** ~~[The Supreme Court shall issue a schedule of fees and charges for interpreters in civil cases]~~.

Section 5. KRS 30A.430 is amended to read as follows:

Every person who acts as an interpreter in circumstances involving the arrest, police custody or other stage in a criminal, civil, or other matter of a person coming under KRS 30A.410 shall not be examined as a witness regarding conversations between that person and his attorney, when ***the*** [~~such~~] conversations would otherwise be subject to the attorney-client privilege, without the consent of that person. ***Interpreters shall not be required to testify regarding any other privileged communications without the consent of the person for whom they are interpreting.***

Section 6. KRS 30A.435 is amended to read as follows:

(1) In the performance of his duties the interpreter may utilize electronic recording, foreign language translation, and other equipment. ***A person who is deaf, hard of hearing, or speech impaired may elect to use assistive technology in lieu of or in addition to the services of an interpreter.***

(2) If the equipment sought to be used is of the type approved by the Administrative Office of the Courts***,*** no further approval is required before the equipment may be used in court or court-related matters.

(3) If the equipment is of a type for which no approval has been issued by the Administrative Office of the Courts***,*** the use of ***the*** [~~such~~] equipment for court or court-related matter shall be approved in writing and in advance by the director of the Administrative Office of the Courts or his designee or by the judge making the appointment.

(4) If the equipment is of a type which has been disapproved by the Administrative Office of the Courts, it shall not be used in any court or court-related matter.

(5) All equipment utilized in court or court-related matters shall be in proper mechanical and working order and shall be fit for the intended use.

Section 7. KRS 344.500 is amended to read as follows:

(1) Any person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~] or who because of a speaking or other impairment [~~or who is hard of hearing, and~~] has difficulty in communicating with other persons shall be entitled to the assistance and services of a qualified interpreter.

(2) A qualified interpreter shall be appointed in any proceeding before a board, commission, agency, or licensing authority of the state or any of its political subdivisions, when the principal party in interest or a witness is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~].

(3) No person shall be appointed as an interpreter pursuant to this section unless the appointing authority makes a preliminary determination that the interpreter is able to readily communicate with the person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~], and is able to accurately repeat and translate the statements of the person, and the appointee is agreed to by the person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~].

(4) Upon the request of the appointing authority, the Kentucky ***Commission on the Deaf and Hard of Hearing, the Kentucky*** Registry of Interpreters for the Deaf, or the Kentucky ***Association of*** [~~School for~~] the Deaf, shall recommend qualified interpreters to assist a person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~].

(5) The appointing authority shall set the compensation for each day the interpreter is in attendance. The compensation, plus any reasonable expenses incurred by the interpreter, shall be paid from the funds of the appointing authority.

The Committee Substitute to **SB 319** is as follows:

SB 319, AN ACT relating to interpreters in judicial and administrative proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 30A.400 is amended to read as follows:

(1) [~~Any judge of any court may appoint an interpreter for any party, witness, or for any other appropriate individual in any matter properly before the court over which he presides and may authorize payment for an interpreter out of the State Treasury.~~

~~(2)~~] If a person has been detained in police custody or has been arrested, an interpreter shall be provided prior to any interrogation or taking of a statement from the person if the court determines he meets the criteria set forth in KRS 30A.410.

(2)[~~(3)~~] Any statement made by a person who is entitled to the services of an interpreter under subsection ***(1)***[~~(2)~~] of this section to a law enforcement officer may be used as evidence against that person only if the statement was made, offered, or elicited in the presence of a qualified interpreter. This subsection shall not deny a person the right to make a voluntary confession.

(3) If the eligibility of the individual for an interpreter is challenged, the judge may, on good cause shown, hold a hearing to determine the bona fide need for interpreter services.

(4) [~~If the judge, or any other person, believes that a person claiming to be entitled to an interpreter may not actually be deaf or hard of hearing, unable to communicate in English, or otherwise not entitled to the services, the judge may, on good~~

~~cause shown, hold a hearing to determine the extent of the person's handicap or disability and the bona fide need for interpreting services.~~

~~(5)~~] If it is determined that the person is not entitled to these services, no portion of KRS 30A.425 to 30A.435 shall apply to him.

Section 2. KRS 30A.405 is amended to read as follows:

(1) Any person appointed as interpreter ***pursuant to this chapter*** [~~for any matter before the Court of Justice~~] shall be qualified by training or experience ***to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary*** [~~for the interpreting function which he is to discharge and shall meet, where applicable, all requirements established for the position~~].

(2) The Supreme Court ***shall*** [~~may~~] prescribe standards***, such as national certification,*** for appointment, qualifications, duties, and other matters relating to interpreters. In the area of providing interpreters for persons who are deaf or hard of hearing as described under KRS 30A.410(1)(a), the standards ***shall*** [~~may~~] be ***established*** [~~promulgated~~] after ***consultation*** [~~consulting~~] with the Kentucky ***Commission on the Deaf and Hard of Hearing, the Kentucky*** Registry of Interpreters ***for*** [~~of~~] the Deaf, and the Kentucky ***Association of the Deaf*** [~~School for the Deaf~~].

(3) These rules[~~, regulations,~~] and standards shall be administered by the Administrative Office of the Courts.

Section 3. KRS 30A.410 is amended to read as follows:

(1) ***The court in any matter, criminal or civil, shall appoint*** [~~At any stage of any criminal, juvenile, or mental inquest case, or any grand jury proceeding, including probation and parole proceedings,~~] a qualified interpreter or interpreters, to be paid out of the State Treasury, [~~shall be provided~~] for the following categories of persons, whether they are parties, ***jurors,*** or witnesses:

(a) Persons who because of deafness or hard of hearing***:*** [~~have difficulty in readily understanding or communicating in the written or spoken English language;~~]

1. Use sign language, such as pidgin, signed English, American Sign Language, or gestures; or

2. Are oral/aural and use interpreters and assistive technology,

as their primary mode of communication;

(b) Persons who cannot communicate in English; and

(c) Any other person who has, in the opinion of the court, another type of disability which will prevent him from properly understanding the nature of the proceedings or substantially prejudice his rights.

(2) Upon request of the person for whom the interpreter is appointed, or on the court's own motion, an interpreter may be removed for inability to communicate with the person, or if for reasonable cause another interpreter is so desired by the person for whom the interpreter is appointed, or because the services of an interpreter are not desired by the person. [~~If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether the interpreter is "qualified" within the meaning set forth under KRS 30A.405.~~

~~(3) For the purposes of KRS 30A.400 to 30A.435, the following terms shall mean:~~

~~(a) "Mental inquest" means any hearing or proceeding in which a person included in subsection (1) of this section, is involved which is held to determine that person's sanity, mental capacity, or developmental level, for legal purposes whether held to commit, change the circumstances of commitment, or to release that person.~~

~~(b) An "interpreter", in case of an individual coming within the protection of this section, means a person who translates written and oral communications or interprets communication as to effectively transmit information to the individual.~~]

Section 4. KRS 30A.415 is amended to read as follows:

(1) ***In criminal or civil cases, the Court of Justice shall be responsible for payment, including ordinary and reasonable expenses, for interpretive services for court appearances*** [~~In any civil case, upon approval by the court, an interpreter may be appointed. The cost for the interpreter's services shall be taxed as costs against the losing party at the conclusion of the suit, provided, however, that the judge may compensate the interpreter out of the State Treasury if such is suggested by considerations of fairness and justice~~].

(2) ***In any case in which the interpreter is providing services out of court, even though that service relates to a pending court case, the agency requiring the services of the interpreter shall be responsible for payment*** [~~The Supreme Court shall issue a schedule of fees and charges for interpreters in civil cases~~].

Section 5. KRS 30A.430 is amended to read as follows:

Every person who acts as an interpreter in circumstances involving the arrest, police custody or other stage in a criminal, civil, or other matter of a person coming under KRS 30A.410 shall not be examined as a witness regarding conversations between that person and his attorney, when ***the*** [~~such~~] conversations would otherwise be subject to the attorney-client privilege, without the consent of that person. ***Interpreters shall not be required to testify regarding any other privileged communications without***

the consent of the person for whom they are interpreting.

Section 6. KRS 30A.435 is amended to read as follows:

(1) In the performance of his duties the interpreter may utilize electronic recording, foreign language translation, and other equipment. ***A person who is deaf, hard of hearing, or speech impaired may elect to use assistive technology in lieu of or in addition to the services of an interpreter.***

(2) If the equipment sought to be used is of the type approved by the Administrative Office of the Courts, no further approval is required before the equipment may be used in court or court-related matters.

(3) If the equipment is of a type for which no approval has been issued by the Administrative Office of the Courts, the use of ***the*** [~~such~~] equipment for court or court-related matter shall be approved in writing and in advance by the director of the Administrative Office of the Courts or his designee or by the judge making the appointment.

(4) If the equipment is of a type which has been disapproved by the Administrative Office of the Courts, it shall not be used in any court or court-related matter.

(5) All equipment utilized in court or court-related matters shall be in proper mechanical and working order and shall be fit for the intended use.

Section 7. KRS 344.500 is amended to read as follows:

(1) Any person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~] or who because of a speaking or other impairment [~~or who is hard of hearing, and~~] has difficulty in communicating with other persons shall be entitled to the assistance and services of a qualified interpreter.

(2) A qualified interpreter shall be appointed in any proceeding before a board, commission, agency, or licensing authority of the state or any of its political subdivisions, when the principal party in interest or a witness is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~].

(3) No person shall be appointed as an interpreter pursuant to this section unless the appointing authority makes a preliminary determination that the interpreter is able to readily communicate with the person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~], and is able to accurately repeat and translate the statements of the person, and the appointee is agreed to by the person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~].

(4) Upon the request of the appointing authority, the Kentucky ***Commission on the Deaf and Hard of Hearing, the Kentucky*** Registry of Interpreters for the Deaf, or the Kentucky ***Association of*** [~~School for~~] the Deaf, shall recommend qualified interpreters to assist a person who is deaf, ***hard of hearing, or speech impaired*** [~~mute, or both~~].

(5) The appointing authority shall set the compensation for each day the interpreter is in attendance. The compensation, plus any reasonable expenses incurred by the interpreter, shall be paid from the funds of the appointing authority.

SB 337, AN ACT relating to assault in the third degree.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when:

(a) With recklessness he causes or attempts to cause physical injury to a state, county, city, or federal peace officer, employee of a detention facility, ***or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender,*** or probation and parole officer by means of a deadly weapon or a dangerous instrument; or

(b) Being a person confined in a detention facility, ***or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender,*** he inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the detention facility.

(2) Assault in the third degree is a Class D felony.

The Committee on Labor and Industry reported **SB 331** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 331, AN ACT relating to employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "employer" means any person, either individual, corporation, partnership, agency, or firm, that employs an employee and includes any person, either individual, corporation, partnership, agency, or firm,

acting directly or indirectly in the interest of an employer in relation to an employee; and "employee" means any person employed by or suffered or permitted to work for an employer.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, no employer shall require as a condition or precondition of employment that any employee or person seeking employment waive, arbitrate, or otherwise diminish any existing or future claim, right, or benefit to which the employee or person seeking employment would otherwise be entitled under any provision of the Kentucky Revised Statutes or any federal law.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 195**, by Representative Lear:

On page 5, line 18, after "Section 5." by inserting the following:

"Whereas , both Chambers of the 103rd Congress have passed the School-To-Work Opportunities Act of 1993; and

Whereas, the Act provides funding for the development and capacity building of states to implement such a system;

Whereas, the Kentucky General Assembly is committed to school-to-work transition as evidenced by the passage of the Kentucky Education Reform Act of 1990; and

Whereas, the Kentucky General Assembly is currently engaged in the "Investing in People" project which will address skill standards in the Commonwealth; and

Whereas, the Governor has shown his leadership and commitment to the program by the establishment of a School-To-Work Partnership Council; and

Whereas, business, labor, education and government will all play a key role in the development and implementation of a School-To-Work system in Kentucky; and

Whereas, Kentucky's educational system needs to provide a comprehensive and coherent system to help students make effective transition from school-to-work;

Now, therefore,

The General Assembly endorses the development and implementation of a school-to-work system in the Commonwealth including the establishment of skill standards. The Interim Education Committee will request periodic progress reports from the School-To-Work Partnership Council regarding the establishment of the system. The Interim Education Committee will make recommendations to the 1996 General Assembly regarding adequate funding and statutory language necessary to support the system during the development phase and sustain the system after federal funding ceases.

Section 6.";

On page 5, line 19, after the word "personnel" insert a comma ","; and

On page 5, line 21, after "Section" by deleting "6" and adding "7".

Floor Title Amendment to **SB 151**, by Representative B. Smith:

By amending the title to read as follows:

"AN ACT relating to insurance."

Floor Amendment No. 1 to the Committee Substitute to **SB 308**, by Representative B. Smith:

On page 18, line 5, after "and" by inserting "Sections 2 to 12 of".

Floor Title Amendment to **SB 308**, by Representative B. Smith:

After "insurance" by inserting "and declaring an emergency".

Floor Amendment No. 3 to **SB 154**, by Representative Burch:

On page 3, below line 19, by inserting the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 9 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this

Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 2 to 9 and Section 10 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet in a civil enforcement procedure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 2 to 9 and Section 10 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 2 to 9 and Section 10 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the

Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 2 to 9 and Section 10 of this Act. Each local health department or district health department that agrees to enforce Sections 2 to 9 and Section 10 of this Act, shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 2 to 9 and Section 10 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 2 to 9 and Section 10 of this Act.

Section 9. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or knowingly solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation. ***The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.***"

Section 10. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** [~~provide~~] cigarettes or tobacco products***, including*** [~~or~~] samples thereof, free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)*** [~~($100)~~] for each offense. ***The fine shall be administered by the Cabinet for Human Resources or its agent using a civil enforcement procedure.***".

Consent Calendar

SB 303 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Calendar

SB 245, SB 256, SB 272, SB 348, HR 107, SB 72, SB 93, SB 246, SB 262, SB 277, SB 289, SB 344, SB 367, SCR 74, SB 81, SB 305, SB 314, SB 343, SCR 81, SJR 82, SCR 84, SB 238, SB 214 and **SB 80** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 81**, by Representative Damron:

On page 3, line 6, by adding thereafter:

"Section 2. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) ***If a member simultaneously contributes to another public retirement fund within Kentucky other than one administered by the Kentucky Retirement Systems, the member shall not consolidate simultaneously earned service credit pursuant to KRS 61.680(2) at the time of retirement*** ~~[Membership in the system shall not include those employees who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems]~~.

Section 3. Contributions made in good faith and accepted by the County Employees Retirement System prior to the effective date of this Act by employees simultaneously contributing to another public retirement fund within Kentucky other than one administered by the Kentucky Retirement Systems, and by their employers, shall be retained by the County Employees Retirement System, and the service credit attributable thereto shall be granted. If a member received a refund of contributions, the employee may reimburse the County Employees Retirement System for the refund, and shall be granted the service credit attributable thereto, if the employer also returns the refund.

Section 4. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces,

or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any member of the Kentucky Employees Retirement System age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any member of the Kentucky Employees Retirement System or the State Police Retirement System who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be made by the same methods set forth in subsection (6) of this section, and the delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited in the individual member's account.

Section 1. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive credit for active service rendered in the Armed Forces of the United States, ***or service in the military reserves of the United States or the National Guard,*** subject to regulations promulgated by the board of trustees. Military service may be credited only if discharge was other than dishonorable***, but purchase of military reserve or National Guard service may be made prior to discharge***. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of military service may be credited, but [~~in no case~~] a greater number of years ***shall not be credited*** than the actual years of contributing service in Kentucky. ***A member may purchase one (1) month of service for each six (6) months of service in the military reserves or the National Guard.***

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) A member receiving retirement credit for active duty in the armed services of the United States ***or service in the military reserves or the National Guard*** shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death, and medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services ***or service in the military reserves or the National Guard***, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(5) If an active contributing member is called to active duty in the armed forces of the United States, on or after August 2, 1990, as a result of being a member of the national guard or military reserve, the retirement system shall credit the member with service credit during the approved leave of absence without a contribution on the part of the member. The actuarial cost of the service awarded under this subsection shall be paid by the member's employer. The member who is credited with service for a period of active military duty under this subsection shall not be eligible to purchase credit under subsection (4) of this section for the same period of service. Active duty requested by the member shall not be considered for service credit without a contribution on the member's part as provided by this section.".

Floor Amendment No. 3 to **SB 81**, by Representative Donnermeyer:

On page 3, line 6, by adding thereafter the following:

"Section 2. KRS 95.775 is amended to read as follows:

(1) If any member of the police ***or*** [~~and~~] fire ***department*** [~~departments~~] of ***a city*** [~~such cities~~] has served twenty (20) years or more and has reached his fifty-first birthday [~~in such police or fire departments~~], and if his application to be relieved from ***the*** [~~such~~] police or fire ***department*** [~~departments~~] is granted, the [~~said~~] board of trustees shall order ***payment of*** [~~and direct that such person be paid~~] a monthly pension equal to one-half (1/2) of the amount of the salary ***the*** [~~said~~] person is or was in receipt of as a member of ***the*** [~~said~~] department at the time of granting application.

(2) The board of trustees may annually order an increase in benefits paid pursuant to this section and KRS 95.773 in order to adjust retirement benefits to the purchasing power of the dollar. Annual increases in benefits may be in amounts up to the annual increase in the consumer price index calculated pursuant to KRS 64.527, but shall not

exceed five percent (5%).".

Floor Amendment No. 1 to **SB 80**, by Representative Donnermeyer:

On page 2, line 22, by adding thereafter the following:

"Section 3. KRS 95.775 is amended to read as follows:

(1) If any member of the police ***or*** ~~[and]~~ fire ***department*** ~~[departments]~~ of ***a city*** ~~[such cities]~~ has served twenty (20) years or more and has reached his fifty-first birthday ~~[in such police or fire departments]~~, and if his application to be relieved from ***the*** ~~[such]~~ police or fire ***department*** ~~[departments]~~ is granted, the ~~[said]~~ board of trustees shall order ***payment of*** ~~[and direct that such person be paid]~~ a monthly pension equal to one-half (1/2) of the amount of the salary ***the*** ~~[said]~~ person is or was in receipt of as a member of ***the*** ~~[said]~~ department at the time of granting application.

(2) The board of trustees may annually order an increase in benefits paid pursuant to this section and KRS 95.773 in order to adjust retirement benefits to the purchasing power of the dollar. Annual increases in benefits may be in amounts up to the annual increase in the consumer price index calculated pursuant to KRS 64.527, but shall not exceed five percent (5%).".

Floor Amendment No. 2 to the Committee Substitute to **SB 287**, by Representative B. Smith:

On page 1, line 5, after "KRS 12.040." by adding "***If the Senate is not in session when a term expires or a vacancy occurs, the Govenor shall make the appointment to take effect at once, subject to the approval of the Senate when convened.***"

Floor Amendment No. 3 to the Committee Substitute to **SB 287**, by Representative Ridley:

On page 24, after line 22 by inserting,

"SECTION 25. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any examiner who has knowledge of the statutory insolvency, or hazardous financial condition as defined by administrative regulation, of an authorized insurer, or that it is inexpedient to permit the authorized insurer to continue business, and who fails to immediately present a signed report of the facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office or employment contract and shall be fined not less than one hundred dollars ($100) nor more than two thousand dollars ($2000) for each offense.

(2) Any commissioner who has knowledge of the statutory insolvency, or hazardous financial condition as defined by administrative regulation, of an authorized insurer, or that it is inexpedient to permit the authorized insurer to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5000) for each offense."; and

On page 24, line 23, after "Section" by changing "25" to "26".

Floor Title Amendment to **SB 351**, by Representative Keith:

By changing the title to read as follows: "AN ACT relating to motor vehicles."

Floor Amendment No. 2 to **SB 351**, by Representative Keith:

On page 2, line 12, after the "." by adding a new Section 2:

"Section 2. KRS 186A.120 is amended to read as follows:

(1) Application for a first certificate of registration or title and plate, shall be made by the owner to the county clerk of the county in which he resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, ***the title shall not be issued from Frankfort, until the first certificate of registration or title information has been entered by the county clerk of the purchaser's residence***~~[, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located]~~.

(2) ~~[(a)]~~ When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title ***shall***~~[may]~~ be made to the county clerk in ***the county in which the purchaser resides***~~[either county]~~. The lien ***shall***~~[must]~~ be recorded in the county of the purchaser's residence.

~~[(b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.]~~

(3) (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.

(b) Except as otherwise provided in this chapter, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.

(4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.

(5) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in either the county in which the owner resides or in the county in which the vehicle is principally operated."

Floor Amendment No. 2 to **SB 81**, by Representative Brown:

On page 3, line 6, by inserting thereafter the following:

"Section 2. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System. ***One (1) of the trustees shall be employed in or retired from a hazardous duty position and one (1) shall be employed in or retired from a nonhazardous duty position***;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require without limitations of KRS 45A.045;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

(d) The state local finance officer shall have an initial term beginning on April 1, 1992.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the commissioner of personnel or the state local finance officer resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, the provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal

adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) (a) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with the administrative regulation promulgated by the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court within thirty (30) days of the final order. No new or additional evidence shall be introduced and the court shall decide the case upon the record as attested.

(b) In the discharge of its duties, the board or its delegate may conduct hearings, administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, documents, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of the systems. A subpoena shall be served in the same manner as a subpoena issued by a Circuit Court, and the sheriff, if he serves the subpoena, shall receive the same fee as provided by law for like service in civil actions. In case of refusal to obey a subpoena issued to any person, any Circuit Court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to comply with the terms of the subpoena. Failure to obey the order of the court may be punished as contempt of court.

Section 3. No term of office of a current trustee shall be interrupted or shortened to implement the requirement that one trustee representing the County Employees Retirement System be employed in or retired from a hazardous duty position.".

Orders of the Day

Representative Heleringer moved that the rules be suspended to allow floor privileges and introduce a guest. Agreed.

Representative Stumbo moved that the rules be suspended to allow floor privileges to a guest and to allow Miss Kentucky to briefly address the House. Agreed.

Representative Cyrus moved the adoption of the following **HR 111**:

HR 111, A RESOLUTION proclaiming the current Miss Kentucky, Tonya Dee Virgin, and each future Miss Kentucky, to be the official hostess of the Commonwealth of Kentucky during her reign as Miss Kentucky.

WHEREAS, the Miss Kentucky pageant, held each year in Lexington, Kentucky, is the official pageant for selecting Miss Kentucky who will represent Kentucky in the Miss America pageant in Atlantic City; and

WHEREAS, Miss Tonya Dee Virgin of Oldtown, Kentucky, is the current reigning Miss Kentucky; and

WHEREAS, the person selected as Miss Kentucky each year is a young woman of unusual beauty, poise, and talent; and

WHEREAS, Miss Tonya Dee Virgin is, and each future Miss Kentucky will be, especially suited to serve as the official hostess of the Commonwealth of Kentucky and in that position will be an invaluable asset to the state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Miss Tonya Dee Virgin, the current reigning Miss Kentucky, and each future Miss Kentucky are hereby proclaimed and designated as the official hostesses of the Commonwealth of Kentucky during their respective reigns as Miss Kentucky.

Section 2. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Miss Tonya Dee Virgin, Oldtown, Kentucky.

HR 111 was adopted by voice vote.

SB 157, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Floor Amendment No. 2 to **SB 157**.

Representative Farrow inquired if Floor Amendment No. 2 was germane to **SB 157**.

The Speaker ruled that Floor Amendment No. 2 was not germane to **SB 157**.

Representative Callahan moved that **SB 157** be passed.

On the roll call the vote was: Yeas 64, Nays 18. (See March 24, 1993 roll call on **SB 157** - Appendix)

SB 157 was passed and the title agreed to.

Representative Callahan moved that the vote by which **SB 157** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **SB 277**, by Representative Coleman:

On page 63, By deleting lines 26 and 27 in their entirety and inserting in lieu thereof:

"Section 48. KRS 194.030 is amended to read as follows:

The Cabinet for Human Resources shall consist of the following major organizational units which are hereby created:

(1) Office of the Secretary;

(2) The Office for Policy and Budget. The Office for Policy and Budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy, and the evaluation of programs. The Office for Policy and Budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(3) The Office of the Counsel. The Office of the Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105;

(4) The Office of the Ombudsman. The Office of the Ombudsman shall provide a review of citizen complaints on services of the Cabinet for Human Resources when such complaints cannot be resolved through normal administrative remedies. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the Governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary;

(5) The Office of Administrative Services. The Office of Administrative Services shall be responsible for providing administrative support services within the Cabinet for Human Resources. All fiscal, facility, and information management functions of the cabinet shall be vested in the Office of Administrative Services. The Office of Administrative Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(6) The Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the Department for Social Insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(7) The Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for medicaid services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(8) The Department for Health Services. The Department for Health Services shall develop and operate all programs of the cabinet that provide health services and all programs for the prevention, detection, care, and treatment of physical disability, illness, and disease. The Department for Health Services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the Department for Health Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(9) The Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall provide services for all programs for the prevention, detection, and treatment of mental disability, illness, and disease and administer all programs for the assistance of community treatment and prevention of such disability, illness, and disease. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary for human resources with the approval of the Governor in accordance with KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the

direction of the secretary for human resources and shall only fulfill such responsibilities as delegated by the secretary;

(10) The Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(11) The Department for Employment Services. The Department for Employment Services shall develop and operate all employment development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. In addition, the department shall develop and operate all programs relating to unemployment insurance laws of the Commonwealth including responsibilities relating to hearing and judging unemployment insurance benefit appeals. The Department for Employment Services shall be headed by a commissioner for employment services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for employment services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for employment services shall exercise authority over the Department for Employment Services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary;

(12) The Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the Cabinet for Human Resources into matters related to the cabinet or its programs;

(b) Licensing and regulatory functions as the secretary may delegate;

(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.247; and

(d) The ~~[notification and]~~ forwarding***, with prior written notification to the secretary,*** of any information relevant to possible criminal violations ***, involving any program administered or funded by the cabinet,*** to the appropriate prosecuting authority .

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary***. Except as otherwise directed by state law, the inspector general may exercise independent judgment as to the forwarding of information to the Office of the Attorney General related to suspected fraud in any programs administered by the cabinet***;

(13) The Commission for Handicapped Children. The duties, responsibilities and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of handicapped children, and to the extent that funds are available, shall provide such services and facilities for handicapped children as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate such administrative regulations pursuant to KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the commission for handicapped children shall be performed through the Office of the Executive Director of the Commission. The executive director shall be appointed by the Governor pursuant to KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for such removal. The executive director shall report directly to the Commission for Handicapped Children and serve as the commission's secretary; and

(14) The Commission for Health Economics Control in Kentucky. The duties, responsibilities and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS 216B.010 to 216B.990, shall be performed by the commission~~.~~ The commission may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement and administer its responsibilities.

Section 49. The General Assembly confirms Executive Order 93-1142, issued November 23, 1993, to the extent that it is not otherwise confirmed by Sections 1 to 47 of this Act."

Floor Amendment No. 4 to **SB 316**, by Representative Northup:

On page 1, line 4, By deleting "***, county, municipal, special district, or urban-county governments***" and inserting in lieu thereof "***government***";

And on page 1, line 5, By deleting "***(1)***";

And also on page 1, line 6, By deleting "*(a)*" and inserting in lieu thereof "*(1)*";

And also on page 1, line 8, By deleting "*(b)*" and inserting in lieu thereof "*(2)*";

And on page 1, line 11, By deleting "*(c)*" and inserting in lieu thereof "*(3)*";

And also on page 1, By deleting lines 14 through 24 in their entirety.

Orders of the Day (Continued)

SB 92, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 92** be passed.

Representative Curd moved the adoption of Floor Amendment No. 3 to **SB 92**. Rejected.

Representative B. Smith moved the adoption of Floor Amendment No. 4 to **SB 92**.

Representative Farrow inquired if Floor Amendment No. 4 was germane to **SB 92**.

The Speaker ruled that Floor Amendment No. 4 was not germane to **SB 92**.

Representative Stumbo moved that **SB 92**, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 24, 1994 roll call on **SB 92** - Appendix)

SB 92 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 92** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 53, SB 89, SB 131, SB 146, SB 175, SB 177, SB 186, SB 193, SB 201, SB 206, SB 228, SB 237, SB 241, SB 248, SB 267, SB 280, SB 301, SB 311, SB 346, SJR 10** and **SJR 51** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:59 p.m.)

Orders of the Day (Continued)

HCR 99 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 99** be adopted.

On the roll call the vote was: Yeas 86, Nays 0. (See March 24, 1994 roll call on **HCR 99** - Appendix)

HCR 99 was adopted.

Representative Morris moved that the vote by which **HCR 99** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 100** be adopted.

On the roll call the vote was: Yeas 86, Nays 4. (See March 24, 1994 roll call on **HCR 100** - Appendix)

HCR 100 was adopted.

Representative Morris moved that the vote by which **HCR 100** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 101 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 101** be adopted.

On the roll call the vote was: Yeas 83, Nays 5. (See March 24, 1994 roll call on **HCR 101** - Appendix)

HCR 101 was adopted.

Representative Morris moved that the vote by which **HCR 101** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 102 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 102** be adopted.

On the roll call the vote was: Yeas 79, Nays 4. (See March 24, 1994 roll call on **HCR 102** - Appendix)

HCR 102 was adopted.

Representative Morris moved that the vote by which **HCR 102** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 92, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HR 92**. Agreed.

Representative B. Smith moved that **HR 92**, as amended, be adopted.

HR 92, as amended, was adopted by voice vote.

SB 153, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 153** be returned to in the Orders of the Day. Agreed.

SB 132 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **SB 132** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 24 , 1994 roll call on **SB 132** - Appendix)

SB 132 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **SB 132** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 238**, by Representative Rasche:

On page 1, after the enactment clause and before line 1, by inserting the following:

"Section 1. KRS 161.028 is amended to read as follows:

(1) ~~[Beginning July 15, 1990,]~~ There shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate***. By July, 1996, the standards for each certificate shall be framed in terms of outcomes to be demonstrated by candidates seeking certification. The standards shall identify what each category of certified professional should know and be able to do to achieve the goals established for the Commonwealth's schools pursuant to KRS 158.6451***;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel***. By July, 1996, the standards shall include an evaluation of the performance of the program's candidates on tests required for certification, the performance of candidates during internships, and other criteria related to measuring the quality of programs***;

(c) Issue, renew, suspend, and revoke teaching certificates.

(d) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers ~~[to the 1992 Regular Session of the General Assembly]~~;

(e) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence; and

(f) ***Establish by administrative regulation*** ~~[Develop]~~ a professional code of ethics.

(2) (a) ***The Education Professional Standards Board shall promulgate administrative regulations implementing the teacher internship program established pursuant to KRS 161.030, and the principal internship program established pursuant to KRS 161.027. The internship programs shall emphasize mentoring and performance assessment.***

(b) The Education Professional Standards Board, pursuant to administrative regulations, shall establish a schedule of fees to be paid by candidates registering to take the assessments required for certification; for applying for certification; and for the issuance, reissuance, or renewal of certificates. The board shall administer the collection of the fees and shall deposit the proceeds with the State Treasurer who shall place the money in an interest bearing revolving fund to the credit of the board. The board shall use the fund to meet the costs of developing, maintaining, and administering the assessment system required for certification, the costs of technology associated with administering the assessments, and the dissemination of certification standards and requirements to individual, school districts, and colleges.

(3) (a) The board shall be composed of fifteen (15) members. The chief state school officer and the executive director of the Council on Higher Education***, or their designees,*** shall serve as ex officio voting members. The Governor shall make the following thirteen (13) appointments:

1. Eight (8) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Two (2) members representative of ***chief academic officers or*** deans of colleges of education***, including one (1) representative from a private college or university offering an approved teacher preparation program***.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) At the first meeting held after July 1 of each year, a chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(4)~~[(3)]~~ The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, ~~[161.048, 161.049,]~~ 161.100, 161.115, 161.120, 161.124, and 161.126. ~~[Rules,]~~ Administrative regulations and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 2. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other ***professional*** school personnel ***shall be*** ~~[is]~~ vested in the Education Professional Standards Board. When ~~[so]~~ certified, teachers and other ***professional*** school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board.

(2) ~~[Certificates shall be issued to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the~~

~~curricula prescribed by the administrative regulations of the Education Professional Standards Board.~~

~~(3)~~] Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the Education Professional Standards Board and shall measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and ***an*** [~~the~~] approved teacher preparation program***, applicants with less than three (3) years successful teaching experience shall receive a statement of eligibility***[~~, a certificate~~] valid for ***five (5) years*** [~~one (1) year shall be issued~~]. If an out-of-state teacher [~~with less than two (2) years experience~~] comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. If the teacher fails the tests, the temporary certificate shall be valid only for the current semester.

(3)[~~(4)~~] A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. [~~Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.~~]

(4)[~~(5)~~] ***The Education Professional Standards Board shall promulgate administrative regulations to implement an internship program for teachers.*** All new teachers, and out-of-state teachers with less than ***three (3)*** [~~two (2)~~] years of successful teaching experience ***within the preceding five (5) years,*** who are seeking [~~initial~~] certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis***,*** and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school ***that*** [~~which~~] meets the state performance standards as established in KRS 156.160 or ***that*** [~~which~~] has been accredited by a regional or national accrediting association. [~~Successful completion shall be determined by a majority vote of the beginning teacher committee.~~] The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. ***The teacher shall receive a regular teaching certificate for the one (1) year internship.*** Upon successful completion of the beginning teacher ***internship*** program, the [~~one (1) year initial teaching~~] certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(5)[~~(6)~~] The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers [~~as provided in subsection (8) of this section~~]. The committee shall consist of a ***mentor*** [~~resource~~] teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher ***preparation program*** [~~training institution to be appointed by the president of that institution. If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations, the chief state school officer may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. In the case of a nonpublic school, if the teacher training institution is unable to provide a member to serve on the beginning teacher committee, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator~~]. The ***mentor*** [~~resource~~] teacher shall be appointed by the Department of Education from a pool of qualified ***mentor*** [~~resource~~] teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a ***mentor*** [~~resource~~] teacher in a nonpublic school, payment shall be made directly to the ***mentor*** [~~resource~~] teacher by the Department of Education. [~~Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:~~

~~(a) Teachers in the same school;~~

~~(b) Teachers in the same district; and~~

~~(c) Teachers in an adjacent school district.~~

~~The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the~~

~~internship one (1) time if the teacher is employed by a school district.~~

~~(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.~~

~~(8) By contract with teacher education institutions in the Commonwealth, the chief state school officer shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the examinations as prescribed by the Education Professional Standards Board.~~]

(6)[~~(9)~~] If an applicant establishes eligibility for a ***five (5) year statement of eligibility*** [~~one (1) year certificate~~] under the provisions of subsection ***(2)***[~~(3)~~] of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible [~~for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity~~] to serve the internship for a period of ***five (5)*** [~~four (4)~~] years after establishing eligibility. If the internship is not completed within the ***five (5)*** [~~four (4)~~] year period, the applicant ***shall*** [~~must~~] reestablish eligibility by ***meeting the requirements established by the board*** [~~repeating and passing the testing program in effect for new teachers at that time.~~

~~(10) The Education Professional Standards Board shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed~~].

Section 3. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board[~~, pursuant to KRS 161.028,~~] shall by administrative regulation establish ***standards*** [~~requirements~~] for [~~a~~] preparation ***programs*** [~~program in institutions of higher education~~] for all new applicants for principal certification***,*** and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on Higher Education shall evaluate the preparation programs for principals and maintain only those [~~institutional~~] programs that can demonstrate both the quality ***of preparation*** and the capability to ***meet the need for qualified principals and that will*** [~~enroll adequate numbers of students to~~] justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall ***establish*** [~~develop or select~~] appropriate ***assessments*** [~~tests~~] for applicants seeking certification as principals[~~, including:~~

~~(a) A generic test to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and~~

~~(b) A specialized examination on the current instructional and administrative practices in Kentucky public education~~].

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of examinations and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the ***assessments*** [~~tests~~]. The Education Professional Standards Board shall provide for confidentiality of examination scores.

(5) The Education Professional Standards Board shall ***implement*** [~~develop~~] an internship program ***that provides*** [~~which shall provide~~] for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ***five (5)*** [~~ten (10)~~] year period prior to making application, at least two (2) years of successful experience as a principal ***of*** [~~in~~] a school [~~situation~~]. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) [~~The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section.~~

~~(7)~~] Upon successful completion of the approved preparation program and the ***assessments*** [~~examinations~~], ***the Education Professional Standards Board*** [~~the chief state school officer~~] shall issue to the applicant a statement of eligibility for internship valid for ***five (5)*** [~~four (4)~~] years. If the applicant does not participate in an internship program within the ***five (5)*** [~~four (4)~~] year period, the applicant shall reestablish eligibility by repeating and passing the ***assessments*** [~~examinations~~] in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position. ***At the request of the employing school district, an out-of-state applicant who comes to Kentucky after the***

deadline for taking the prescribed examinations may be issued a temporary six (6) month statement of eligibility or certificate, if the applicant meets all other requirements for certification as principal. The applicant shall take and pass the assessments during the six (6) month period.

(7)[~~(8)~~] All applicants for principal certification, after successfully completing the ***assessments*** [~~examinations~~], shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations ***of*** [~~developed by~~] the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(8)[~~(9)~~] Following successful completion of the internship program, the principal's certificate shall be extended for ***five (5)*** [~~four (4)~~] years. Renewal of the certificate shall require the completion of a continuing ***professional*** education requirement as prescribed by the Education Professional Standards Board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

The Education Professional Standards Board, in consultation with the Council on Higher Education and the State Board for Elementary and Secondary Education, shall establish alternative certification programs aligned with the goals for the schools of the Commonwealth pursuant to KRS 158.6451. The following practices shall be adhered to in establishing alternative certification programs:

(1) Practicing educators and those outside the profession may obtain certification as a teacher, administrator, or non teaching professional through completion of an alternative program. An alternative program shall not be designed to last longer than eighteen (18) months;

(2) Persons shall be admitted to alternative certification programs on the basis of at least an earned baccalaureate degree;

(3) A significant portion of each alternative certification program shall be performance-based and conducted in school settings or established clinical training and development sites;

(4) Persons completing alternative certification programs shall be expected to meet the same performance and knowledge criteria as those completing a traditional preparation program;

(5) The Education Professional Standards Board shall devise a plan to encourage selected university involvement in alternative certification. Alternative certification programs shall either be operated by colleges or universities or by successful school districts pursuant to KRS 158.6455 that include significant involvement of higher education in their development and implementation. Establishment of an alternative certification program shall be contingent upon approval by the Education Professional Standards Board; and

(6) Persons enrolled in alternative certification programs may be employed by school districts under the supervision of certified personnel.

Section 5. KRS 156.105 is amended to read as follows:

(1) Prior to July 1, 1992, the Department of Education shall establish a Principals Assessment Center, which shall consist of the National Association of Secondary School Principals assessment process or a similar validated process. The department may operate assessment centers regionally and shall provide for assessor training.

(2) In addition to any applicable certification and experience requirements, to be qualified and eligible for initial or continued employment as a school principal, effective July 1, 1994, the principal or applicant shall have successfully completed the assessment center process. A newly hired principal who is relocating from outside the state to begin his duties after June 30, 1994, shall successfully complete the assessment center process within one (1) year of assuming his duties as principal.

(3) The State Board for Elementary and Secondary Education shall adopt administrative regulations to establish the criteria for successful completion of the assessment center process.

(4) All principals hired prior to July 13, 1990, shall be required to successfully complete the beginning teacher committee training program, pursuant to KRS 161.030[~~(8)~~] by July 1, 1991. All principals hired after July 13, 1990, shall be required to complete the beginning teacher committee training program pursuant to KRS 161.030[~~(8)~~] within one (1) year after their appointment.

Section 6. (1) During the 1994-96 biennium, the Education Professional Standards Board shall develop a detailed plan for the transformation to a primarily performance-based, results-oriented system of teacher preparation, certification, and institutional accreditation.

(2) As part of the planning required pursuant to subsection (1) of this section, the Education Professional Standards Board shall conduct a pilot program in cooperation with the Department for Education, the Cabinet for Human Resources, and the Council on Higher Education to validate the performance of all new training program graduates and a selected number of volunteers currently employed as early childhood educators for certification as interdisciplinary early childhood educators. The pilot program shall also include a validation of performance for graduates in specialty areas.

(3) The State Board for Elementary and Secondary Education, in cooperation with the Education Professional

Standards Board shall review the rankings of teachers established by KRS 157.390 to assure that they reflect the transformation to a primarily performance-based, results oriented system of teacher preparation and certification. The boards shall make a progress report on the plan and the implementation of the pilot program to the Interim Joint Committee on Education by January 15, 1995, and a final report by September 1, 1995.

Section 7. The following KRS sections are repealed:

161.048 Alternative certification program – Testing and eligibility requirements.

161.049 Professional support teams -- Training program -- Alternate training program."; and

Delete pages 1 through 18 in their entirety.

Orders of the Day (Continued)

SB 153, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **SB 153**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **SB 153**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 153**. Agreed.

Representative Lewis moved that **SB 153**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 5. (See March 24, 1994 roll call on **SB 153** - Appendix)

SB 153, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 153**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 172, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **SB 172** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 24 , 1994 roll call on **SB 172** - Appendix)

SB 172 was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 172** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 112, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **SB 112**. Agreed.

Representative Coleman moved that **SB 112**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 24, 1994 roll call on **SB 112** - Appendix)

SB 112, by way of Committee Substitute, was passed and the title agreed to.

Representative Coleman moved that the vote by which **SB 112**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 133, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **SB 133** be passed.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **SB 133**.

Representative Rapier inquired if Floor Amendment No. 1 was germane to **SB 133**.

The Speaker ruled that Floor Amendment No. 1 was not germane to **SB 133**.

Representative Hatcher moved that **SB 133** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 24 , 1994 roll call on **SB 133** - Appendix)

SB 133 was passed and the title agreed to.

Representative Hatcher moved that the vote by which **SB 133** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 5 to **SB 316**, by Representative Stacy:

On page 1, after line 24, by inserting the following:

"*(3) This section shall not apply to state universities, state operated hospitals and residential facilities for the mentally ill and the mentally retarded, and jails or detention facilities.*".

Floor Amendment No. 3 to **SB 351**, by Representative Simpson:

On page 2, after line 12, by adding the following new section:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

In order to assist in the reduction of causes which may result in motor vehicle accidents and to preserve the integrity of a funeral procession, the following provisions shall apply:

(1) As used in this section, "funeral procession" means two (2) or more vehicles accompanying the body of a deceased person when each of the vehicles has its headlights lighted or is displaying a pennant attached to each vehicle in a manner that is clearly visible to approaching traffic.

(2) A vehicle in a funeral procession shall have the right-of-way at an intersection and may proceed through the intersection if the procession is headed by a lead or escort vehicle displaying yellow, red, or blue flashing lights, unless one (1) or more of the following conditions exist:

(a) The right-of-way is required by an authorized emergency vehicle defined by KRS 189.910 giving an audible signal;

(b) The vehicles in the procession are directed otherwise by a police officer or safety officer; or

(c) The vehicle is a train or locomotive.

(3) Before assuming the right-of-way, the operator of a vehicle in a funeral procession shall exercise due caution with regard to crossing traffic.

(4) The operator of a vehicle that is not in a funeral procession shall not drive the vehicle between the vehicles in the procession or otherwise interfere with the progress of the procession, unless:

(a) The operator is authorized to do so by a police officer or safety officer; or

(b) The vehicle is an authorized emergency vehicle defined by KRS 189.910 giving an audible signal authorized by KRS 189.920.

(5) The operator of a vehicle that is not a part of a funeral procession shall not illuminate the vehicle's headlights or engage in any other act for the purpose of securing the right-of-way granted by law to funeral processions.

(6) (a) The lead vehicle, the hearse, or other vehicle in a funeral procession may be equipped with flashing amber lights that may be used while the funeral procession is in progress and may be used to gain the right-of-way at an intersection, to protect the funeral procession while crossing an intersection, and to signal the end of a procession.

(b) A peace officer or safety officer authorized to use blue flashing lights or combination blue and red flashing lights pursuant to KRS 189.920 may use the lights and audible signals while accompanying a funeral procession to warn traffic that a funeral procession is approaching or that it is in progress.

(7) When a funeral procession is proceeding on a multiple lane highway, the operator of a vehicle that is not in the procession shall not pass or overtake any vehicle in the funeral procession unless:

(a) The operator of the vehicle is directed to pass or overtake the procession by a police officer;

(b) The multiple lane highway is outside the corporate limits of a city or urban-county government; or

(c) The multiple lane highway is an interstate.

(8) A person who violates the provisions of this section shall be guilty of a Class A misdemeanor."

Floor Amendment No. 2 to the Committee Substitute to **SB 262**, by Representative Moberly:

On page 17, between lines 2 and 3, by inserting the following:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) If there is only one (1) nominee for a judicial office in a regular election and a vacancy occurs in that candidacy after the first Tuesday in August but before the ballots are printed for the regular election, candidates seeking to fill the vacancy shall file a petition for candidacy not later than 4 p.m. five (5) days after the vacancy occurred and the election shall be conducted in the manner provided in KRS 118A.100.

(2) If there is only one (1) nominee for a judicial office in a regular election and a vacancy occurs in that candidacy after the ballots are printed for the regular election but not later than the second Thursday preceding the regular election, candidates seeking to fill the vacancy shall file a petition for candidacy not later than 4 p.m. five (5) days after the vacancy occurred and the election shall be conducted as follows:

- ***(a) If the name of any candidate who filed a petition for candidacy can be placed upon the machine ballots or ballot cards, the county clerk shall equip the voting machines and ballot cards to accommodate the candidate's name and the election shall be conducted as provided in KRS 118A.100; or***
- ***(b) If the name of any candidate who filed a petition for candidacy cannot be placed upon the machine ballots or ballot cards, the county clerk shall request approval to use supplemental paper ballots for voting for candidates for that office as provided in KRS 118.215(5), and, if approved, shall, where possible, block out the names of candidates for that office on the voting machines or ballot cards and voting for that office shall be conducted with supplemental paper ballots, subject to the provisions of KRS 118.212.***
- ***(c) All actions by a county clerk, the State Board of Elections, and the Secretary of State which are necessary to provide for voting at a regular election for nominees for an office for which there has been a vacancy in candidacy which may be filled pursuant to this section shall be carried out with all possible haste.***
- ***(d) If a vacancy in candidacy described in subsection (2) occurs later than the second Thursday preceding the day of the regular election, no petitions for candidacy shall be filed and candidates may seek election by write-in voting pursuant to KRS 117.265.***

Section 12. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

- (a) Not later than the third Tuesday in February preceding a primary;
- (b) Not less than twenty-five (25) days before a runoff primary;
- (c) Not later than the third Tuesday in August preceding a general election, the certification of candidates to federal office; and
- (d) Not later than the third Tuesday in August preceding a general election, the certification to include all candidates and slates of candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. ***If the county clerk determines that the name of a candidate nominated to fill a vacancy in candidacy occurring after the ballots are printed cannot be placed on the machine ballot or ballot card, he shall notify the State Board of Elections as soon as that determination has been made.*** The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices***, offices for which all candidates cannot be placed on the machine ballot or ballot cards for an office,*** and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 13. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the second Tuesday in January preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal ***prior to the first Tuesday in August***, ~~[and the candidates have not been replaced as provided in KRS 118A.060,]~~ the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State not later than the first Tuesday in August preceding the day fixed by law for holding the regular election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the first Tuesday in August preceding the regular election.

(7) Not later than the third Thursday in August preceding the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

  (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

  (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected."; and

On page 17, line 3, by deleting "11" and inserting in lieu thereof "14".

Orders of the Day (Continued)

SB 247, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **SB 247**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **SB 247**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 2 to **SB 247**.

Representative Farrow inquired if Floor Amendment No. 2 was appropriate to **SB 247**.

The Speaker ruled that Floor Amendment No. 2 was appropriate to **SB 247**.

Representative Riner moved the adoption of Floor Amendment No. 2 to **SB 247**.

On the roll call on Floor Amendment No. 2 to **SB 247** the vote was **Yeas 84**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Bentley, Bondurant, Bowling, Bruce, Bryant, Buis, Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Little, Long, Lyne, Maggard, Maricle, Mason, Morris, Napier, Nelson, Nesler, Noland, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, Stacy, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Yates, Zimmerman. **Nays 9**--Brown, Burch, Clarke, Crenshaw, Marzian, McElroy, Moberly, Scorsone, Stengel.

Floor Amendment No. 2 to **SB 247** was adopted.

Representative Moberly moved that **SB 247**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 9. (See March 24, 1994 roll call on **SB 247** - Appendix)

SB 247, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 247**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 268, HB 355, HB 462, HB 505, HB 551** and **HB 565** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:40 p.m.)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Heleringer moved the adoption of the following **Legislative Citation No. 135**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Sam Collins, Legislative Intern. The entire membership would like to join with Representative Bob Heleringer in commending you on your professional manner, keen sense of humor during some brief but trying times and for doing a superb job while serving as his Legislative Intern during the 1994 Legislative Session.

SB 205, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Floor Amendment No. 1 to **SB 205**.

On the roll call to adopt Floor Amendment No. 1 to **SB 205** the vote was **Yeas 65**--Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Bentley, Bondurant, Bruce, Bryant, Buis, Butler, Callahan, Cave, L. Clark, P. Clark, Collins, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Ford, Fox, French, Gedling, Gee, Graham, Gray, Hampton, Hatcher, Heleringer, Jensen, Kerr, Lee, Lewis, Lile, Little, Maggard, Maricle, Mason, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Palumbo, Rasche, Reinhardt, Richards, Sanders, Scott, Shacklette, Simpson, B. Smith, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Yates, Zimmerman. **Nays 8**--Brown, Burch, Crenshaw, Long, Marzian, Rapier, Scorsone, Wayne.

Floor Amendment No. 1 to **SB 205** was adopted.

Representative Mason moved the adoption of Floor Amendment No. 2 to **SB 205**. Agreed.

Representative Kerr moved that **SB 205**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 24, 1994 roll call on **SB 205** - Appendix)

SB 205, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 205**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 262**, by Representative Moberly:

By amending the title to read "AN ACT relating to elections.".

Orders of the Day (Continued)

SB 225 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 225** be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 24, 1994 roll call on **SB 225** - Appendix)

SB 225 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 225** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 180, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Committee Amendment No. 1 to **SB 180**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **SB 180**.

Representative Farrow inquired if Floor Amendment No. 1 was germane to **SB 180**.

The Speaker ruled that Floor Amendment No. 1 was not germane to **SB 180**.

Representative Johnson moved that **SB 180**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 24, 1994 roll call on **SB 180** - Appendix)

SB 180, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 180**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 243 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **SB 243** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 24, 1994 roll call on **SB 243** - Appendix)

SB 243 was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 243** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 238**, by Representative Nesler:

On page 18, between lines 18 and 19, by inserting the following:

"Section 9. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly;

(b) The number and types of exceptional children in the district as defined by KRS 157.200. No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs; and

(c) Transportation costs. The per pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the State Board for Elementary and Secondary Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the State Board for Elementary and Secondary Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the State Board for Elementary and Secondary Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) ***The General Assembly recognizes the importance of providing teacher compensation that is adequate, rewarding, and competitive on a local and national level. Therefore, for the 1994-96 biennium, local school districts shall increase teacher compensation by an amount equal to the percentage increase for salaries of employees of the Commonwealth of Kentucky as provided in the biennial budget.***

(12)[~~(11)~~](a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Office of Vocational Education in the Department of Education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.

(***13***)[~~(12)~~]——(a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding excluding the capital outlay, shall be allotted for each child in average daily attendance in the current school year who has been properly identified according to State Board for Elementary and Secondary Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(***14***)[~~(13)~~] Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled. "; and

On page 18, line 19, delete "Section 9" and insert "Section 10" in lieu thereof.

Orders of the Day (Continued)

SB 266, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Floor Amendment No. 1 to **SB 266**. Agreed.

Representative Bowling moved that **SB 266**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See March 24, 1994 roll call on **SB 266** - Appendix)

SB 266, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 266**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 307, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **SB 307**. Agreed.

Representative Donnermeyer moved that **SB 307**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 74, Nays 6. (See March 24, 1994 roll call on **SB 307** - Appendix)

SB 307, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 307**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 268, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Floor Amendment No. 1 to **SB 268**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 2 to **SB 268**. Agreed.

Representative Brown moved that **SB 268**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 24, 1993 roll call on **SB 268** - Appendix)

SB 268, as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **SB 268**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 278**, by Representative Geveden:

On page 2, below line 10 to add the following:

"Section 2. KRS 403.190 is amended to read as follows:

(1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors including:

    (a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;

    (b) Value of the property set apart to each spouse;

    (c) Duration of the marriage; and

    (d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

(2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:

    (a) Property acquired by gift, bequest, devise, or descent***, and the income derived therefrom***;

(b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent***, and the income derived therefrom***;

(c) Property acquired by a spouse after a decree of legal separation;

(d) Property excluded by valid agreement of the parties; and

(e) The increase in value of property acquired before the marriage***, and the income derived therefrom*** to the extent that ***the***[~~such~~] increase ***or income*** did not result from the efforts of the parties during marriage.

(3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

(4) If the retirement benefits of one spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions or any other benefit of a retirement system or plan regulated by the Employees Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended."

Orders of the Day (Continued)

SB 136 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Floor Amendment No. 1 to **SB 136**.

On the roll call to adopt Floor Amendment No. 1 to **SB 136** the vote was **Yeas 31**--Barrows, Bentley, Bondurant, Bowling, Brown, Burch, L. Clark, Clarke, Crenshaw, Deskins, DeWeese, Farrow, Fox, Geveden, Gray, Lear, Lee, LeMaster, Little, Marzian, Mason, McElroy, Moberly, Nesler, Nunn, Palumbo, Scorsone, Shacklette, Stengel, Stumbo, Trapp. **Nays 62**--Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Bruce, Bryant, Buis, Butler, Callahan, Cave, P. Clark, Coleman, Collins, Curd, Cyrus, Damron, Donnermeyer, Farley, Ford, French, Gedling, Gee, Graham, Hampton, Hancock, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lewis, Lile, Lindsay, Long, Lyne, Maggard, Maricle, Mullinix, Napier, Nelson, Noland, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scott, Simpson, B. Smith, Stacy, Todd, Treesh, Turner, Walton, Wayne, Yates, Zimmerman.

Floor Amendment No. 1 to **SB 136** was rejected.

Representative Stengel moved the adoption of Floor Amendment No. 3 to **SB 136**.

On the roll call to adopt Floor Amendment No. 3 to **SB 136** the vote was **Yeas 34**--Arnold, Barrows, Bentley, Bondurant, Bowling, Brown, Burch, L. Clark, Clarke, Crenshaw, Cyrus, Deskins, DeWeese, Farrow, Fox, Geveden, Graham, Gray, Keith, Lee, Lindsay, Little, Long, Marzian, Mason, Moberly, Nesler, Nunn, Palumbo, Scorsone, Shacklette, Stengel, Stumbo, Trapp. **Nays 59**--Ackerson, Adams, Adkins, Allen, Altman, Ballard, Bruce, Bryant, Buis, Butler, Callahan, Cave, P. Clark, Coleman, Collins, Curd, Damron, Donnermeyer, Farley, Ford, French, Gedling, Gee, Hampton, Hancock, Hatcher, Heleringer, Jensen, Johnson, Kerr, LeMaster, Lewis, Lile, Lyne, Maggard, Maricle, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Rapier, Rasche, Reinhardt, Ridley, Riner, Sanders, Scott, Simpson, B. Smith, Stacy, Todd, Treesh, Turner, Walton, Wayne, Yates, Zimmerman.

Floor Amendment No. 3 to **SB 136** was rejected.

Representative Burch moved the adoption of Floor Amendment No. 5 to **SB 136.**

Representative Farrow inquired if Floor Amendment No. 5 was germane to **SB 136**.

The Speaker ruled that Floor Amendment No. 5 was germane to **SB 136**.

Representative Burch moved the adoption of Floor Amendment No. 5 to **SB 136**.

On the roll call to adopt Floor Amendment No. 5 to **SB 136**, the vote was **Yeas 7**-- Burch, Crenshaw, Deskins, Little, Marzian, Palumbo, Scorsone. **Nays 82**--Ackerson, Adams, Adkins, Allen, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Bruce, Bryant, Buis, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Curd, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Hatcher, Heleringer, Jensen, Johnson, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Long, Lyne, Maggard, Maricle, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Yates, Zimmerman.

Floor Amendment No. 5 to **SB 136** was rejected.

Representative Marzian moved the adoption of Floor Amendment No. 8 to **SB 136**.

Representative Treesh inquired if Floor Amendment No. 8 was germane to **SB 136**.

The Speaker ruled that Floor Amendment No. 8 was germane to **SB 136**.

On the roll call to adopt Floor Amendment No. 8 to **SB 136** the vote was **Yeas 19**–Bentley, Brown, Burch, L. Clark, Crenshaw, Cyrus, Deskins, Geveden, Gray, Hatcher, Lee, Lindsay, Marzian, Mason, Moberly, Palumbo, Scorsone, Shacklette, Stumbo. **Nays 67**–Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Bondurant, Bowling, Bruce, Bryant, Buis, Butler, Callahan, Cave, P. Clark, Coleman, Collins, Curd, Damron, DeWeese, Donnermeyer, Farley, Ford, French, Gee, Graham, Hampton, Hancock, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Long, Lyne, Maggard, Maricle, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Nunn, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scott, Simpson, B. Smith, Stacy, Todd, Treesh, Turner, Walton, Wayne, Yates, Zimmerman.

Floor Amendment No. 8 to **SB 136** was rejected.

Representative Marzian moved the adoption of Floor Amendment No. 7 to **SB 136**.

On the roll call to adopt Floor Amendment No. 7 to **SB 136** On the roll call the vote was **Yeas 29**–Bentley, Bondurant, Bowling, Brown, Burch, L. Clark, Clarke, Deskins, Farrow, Fox, Geveden, Gray, Hatcher, Keith, Lear, Lee, Lindsay, Little, Marzian, Mason, Moberly, Nesler, Nunn, Palumbo, Scorsone, Shacklette, Stacy, Stengel, Trapp. **Nays 63**–Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Bruce, Bryant, Buis, Butler, Callahan, Cave, P. Clark, Coleman, Collins, Curd, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Ford, French, Gedling, Gee, Hampton, Hancock, Heleringer, Jensen, Johnson, Kerr, LeMaster, Lewis, Lile, Long, Lyne, Maggard, Maricle, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scott, Simpson, B. Smith, Stumbo, Todd, Treesh, Turner, Walton, Wayne, Yates, Zimmerman.

Floor Amendment No. 7 to **SB 136** was rejected.

Representative Johnson moved that **SB 136** be passed.

On the roll call the vote was: Yeas 80, Nays 12. (See March 24 , 1994 roll call on **SB 136** - Appendix)

SB 136 was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 136** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 164** and **SB 232**. Agreed.

Representative Stumbo moved that the rules be suspended to allow meetings of the Committee on Appropriations and Revenue, the Committee on Rules and a Minority Caucus upon recess. Agreed.

Recess

Representative Stumbo moved that the House recess to allow committee meetings and a Minority Caucus in the Court Room. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bills have been posted for passage in the Regular Orders of the Day for March 25, 1994: **SB 100, SB 303**.

The Committee on Rules reported that **SB 271, HR 85, SB 171, SB 195, SB 320, HR 107, SB 72, SB 80, SB 81, SB 93, SB 214, SB 238, SB 245, SB 256, SB 262, SB 272, SB 289, SB 314, SB 343, SB 344, SB 348, SCR 74, SCR 81, SJR 82** and **SCR 84** have been posted for passage in the Orders of the Day for March 25, 1994.

The Committee on State Government reported **SB 270**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 270, AN ACT relating to the administration of oaths.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.020 is amended to read as follows:

The official oath of any officer may be administered by***:***

(1) Any ***state or federal*** judge, ***within his Kentucky jurisdiction; or***

(2) Any county judge/executive, notary public, clerk of a court, or justice of the peace, within his district or county.

The Committee Amendment No. 1 to **SB 270** is as follows:

On page 1, line 3, by deleting "***within his***" and inserting in lieu thereof "***with***".

The Committee on Judiciary reported **SB 213**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 213, AN ACT relating to the parole of adult offenders, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.304 is amended to read as follows:

(1) The commission shall meet at least every three (3) months, and when called into session by the chairman, at the request of the Governor, of any two (2) or more members of the commission, or on his own motion.

(2) The commission shall advise the Governor and the commissioner of the Department of Corrections concerning correctional policy and programs, including particularly the following:

   (a) The need for, and the development of new or specialized institutions, facilities, or programs;

   (b) The need for, and the effectuation of collaboration and liaison within the department, and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community;

   (c) The need for, and the development of useful researches in penology, correctional treatment, criminal law, or in the disciplines relevant thereto.

(3) As required by KRS 439.320(1), the commission shall submit the names of three (3) candidates to the Governor for every vacancy or expired term on the Parole Board. As part of its duties in the nomination of candidates for the Parole Board, the commission shall:

   (a) Publicize vacancies and impending term expirations on the Parole Board in accordance with standards set forth in KRS 424.180;

   (b) Forward a statement of qualifications of each nominee to the Governor along with the nomination. This statement shall identify the experience which meets the qualifications for Parole Board membership outlined in KRS 439.320(1); and

   (c) Maintain the statement of qualifications as a public record in accordance with KRS 61.870 to 61.884.

Section 2. KRS 439.340 is amended to read as follows:

(1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include his criminal record, his conduct, employment, and attitude in prison, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his offense and his previous social history to the institution and the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have ***all prisoners convicted of Class A, B, or C felonies*** [~~him~~] appear before it, ***either in person or through video teleconference,*** [~~or two (2) or more members~~] for interview and hearing***. The board in its discretion may hold interviews and hearings for prisoners convicted of Class D felonies.*** [~~, except that~~] The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board

believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.

(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail to his business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the Commonwealth's attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Any hearing provided for in subsections (5) and (6) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed.

(8) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.

(9) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his agents or employees to comply with any of the provisions of subsections (5), (6), and (7) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.

(10) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the Sexual Offender Treatment Program.

(11) Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.

(12) When an order for parole is issued, it shall recite the conditions thereof.

Section 3. KRS 439.320 is amended to read as follows:

(1) The Governor shall appoint a Parole Board consisting of seven (7) members, ***to be confirmed by the Senate in accordance with KRS 11.160*** [~~one (1) of whom he shall name as chairman of the board~~]. He shall make each appointment from a list of three (3) names given to him by the Commission on Correction and Community Service. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology,

correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than four (4) board members shall be of the same political party. The board shall be attached to the Department of Corrections for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.

(2) ***The Governor shall name one member as chairman of the board.*** The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational, and personnel matters of the board.

(3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the Governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.

(4) The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:

(a) For parole hearings ***at which the inmate appears before the board***, three (3) members; and

(b) For all other business, four (4) members. A decision by any three (3) member panel in a parole hearing shall be final ***only if it is unanimous; otherwise the case must be reviewed and voted on*** [~~unless any member of the full board requests that the full board hear the case, whereupon a parole hearing~~] by not less than four (4) members of the board [~~shall be held~~]. ***Parole decisions for inmates who do not appear before the board shall be reviewed and voted on by not less than four (4) members of the board.***

(5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6) ***Upon the expiration of the terms of office of the two (2) board members whose terms expire May 23, 1994, the Governor shall appoint two (2) members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section*** [~~Present members of the board shall be deemed to have vacated their appointments and successors shall be appointed as provided in subsection (3) of this section~~]. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.

Section 4. KRS 439.330 is amended to read as follows:

(1) The board shall:

(a) Study the case histories of persons eligible for parole, and deliberate on that record;

(b) Conduct hearings on the desirability of granting parole;

(c) Impose upon the parolee or conditional releasee such conditions as it sees fit;

(d) Order the granting of parole;

(e) Issue warrants for persons charged with violations of parole and conduct hearings on such charges, subject to the provisions of KRS 439.341;

(f) Determine the period of supervision for parolees, which period may be subject to extension or reduction after recommendation of the cabinet is received and considered; ***and***

(g) Grant final discharge to parolees.

(2) The board shall adopt an official seal of which the courts shall take judicial notice.

(3) The orders of the board shall not be reviewable except as to compliance with the terms of KRS 439.250 to 439.560.

(4) The board shall keep a record of its acts, ***the votes of individual members, and the reasons for denying parole to inmates. These records shall be public records in accordance with KRS 61.870 to 61.884. The board*** shall notify each institution of its decisions relating to the persons who are or have been confined therein, and shall submit to the Governor a report with statistical and other data of its work at the close of each fiscal year.

SECTION 5. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statute eliminating or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340(10), 439.3401, and 532.080(5), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole

despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented severe, acute, or terminal medical condition and would not pose a threat to society if paroled.

(2) The board shall review prisoners for parole under this section based solely on medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a severe, acute, or terminal medical condition.

(3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the warden of the institution who shall submit that information and a recommendation for or against parole review under this section to the commissioner of the Department of Corrections or his designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical information and warden's recommendation, may be submitted to the board.

Section 6. Whereas the terms of Parole Board members affected by Section 3 of this Act expire prior to the normal effective date for Acts passed in the 1994 Regular Session of the General Assembly, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **SB 213** is as follows:

On page 2, line 20 through 22 remove all new language beginning with the word "***all***" and ending with the word "***teleconference***" and removing all brackets and strike throughs on line 21;

On page 8, line 12 insert after the word "acts," the words "***an electronic record of its meetings, a written record of***";

On page 8, line 22 delete "***(5)***" and insert in lieu thereof "***(7)***";

On page 8, line 25, delete the words "***severe, acute, or***";

On page 8, line 26 insert after the word "***condition***" the words "***likely to result in death within one (1) year***";

On page 8, after "***(2)***" delete the rest of line 27 and insert in lieu thereof the words "***Medical information considered under this section shall be limited to the*** ";

On page 9, line 3 delete the words "***severe, acute, or***";

On page 9, line 4 insert after the word "***condition***" the words "***likely to result in death within one (1) year***";

On page 9, line 11 delete the word "***may***" and insert in lieu thereof the word "***shall***";

On page 9 between line 12 and line 13 insert "***(4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.***".

The Committee on State Government reported **SB 297**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 297, AN ACT relating to statutory legislative committees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.905 is amended to read as follows:

(1) There is hereby created a Legislative Program Review and Investigations Committee which shall be a permanent standing committee of the General Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be appointed by the President ~~[Pro Tempore]~~ and two (2) of whom shall be appointed by the Minority ***Floor*** Leader of the Senate, and eight (8) members of the House of Representatives, six (6) of whom shall be appointed by the Speaker and two (2) of whom shall be appointed by the Minority ***Floor*** Leader of the House of Representatives. At least one (1) appointee ***of*** ~~[by]~~ each ***appointing*** ~~[appointive]~~ authority shall be a member of the Senate or House Standing Committee on Appropriations and Revenue. The appointments shall be made within seven (7) legislative days of the beginning of each ***organizational*** ~~[regular]~~ session of the General Assembly, and the members so appointed shall serve ***at the pleasure of their appointing authority*** ~~[for a term of two (2) years coextensive with the biennium in which the appointment is made]~~. Vacancies shall be filled within sixty (60) days of occurrence in the same manner as the original appointments~~[, and for the balance of the term of the vacated member]~~.

(2) The committee shall select a chairman, vice chairman, and other officers as it may deem necessary from among its membership. The chairman and vice chairman shall be from different chambers of the General Assembly and shall serve ***until the first day of the next organizational session following their selection*** ~~[a term of two (2) years]~~; the chamber of origin for the chairman and vice chairman shall alternate between the House of Representatives and the Senate. Officers shall be selected at the first meeting of the committee following the end of the ***organizational*** ~~[regular]~~ session. A majority of the membership shall constitute a quorum and all actions authorizing a study, dropping a study, or adopting a final report on any subject under study shall require the affirmative vote of a majority of the full committee membership.

All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee.

(3) When a study is instituted, the committee shall request that the Legislative Research Commission appoint the chairman and a ranking minority member, or their designees, of the committee of relevant jurisdiction to serve as nonvoting ex officio members of the committee in activities related to the relevant study. If the legislative committee that requested the study is a standing committee of one (1) of the houses of the General Assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the study is an interim joint committee of the Legislative Research Commission, the ranking minority member shall be:

(a) A minority party member of the House of Representatives appointed by the House Minority Leader, if the chairman of the interim joint committee is a member of the Senate; or

(b) A minority party member of the Senate appointed by the Senate Minority Leader, if the chairman of the interim joint committee is a member of the House of Representatives.

(4) Each regular and nonvoting ex-officio member of the committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the Legislative Research Commission under KRS ***Chapter 6*** [~~7.090(2)~~].

Section 2. KRS 13A.020 is amended to read as follows:

(1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of seven (7) members, no more than five (5) of whom shall be members of the same political party. ***Two (2) members shall be appointed by the President of the Senate, two (2) members by the Speaker of the House, one (1) member by the Minority Floor Leader of the Senate, one (1) member by the Minority Floor Leader of the House, and one (1) member by the Legislative Research Commission. All members shall be appointed during each organizational session and shall serve at the pleasure of their appointing authority.*** [~~The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years, and~~] The members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled ***in the same manner as the original appointment*** [~~by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy~~].

(2) The subcommittee shall meet monthly at ***a*** [~~such~~] time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS ***Chapter 6*** [~~7.090(2)~~].

(3) Any professional, clerical or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

Section 3. KRS 45.790 is amended to read as follows:

(1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Capital Projects and Bond Oversight Committee. The subcommittee shall be composed of seven (7) members [~~and shall include members of the House of Representatives and members of the Senate~~]. ***Two (2) members shall be appointed by the President of the Senate, two (2) members by the Speaker of the House, one (1) member by the Minority Floor Leader of the Senate, one (1) member by the Minority Floor Leader of the House, and one (1) member by the Legislative Research Commission. All members shall be appointed during each organizational session and shall serve at the pleasure of their appointing authority*** [~~The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years~~]. The members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled ***in the same manner as the original appointment*** [~~by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs~~].

(2) The subcommittee shall meet monthly, and may meet more frequently when necessary, at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS ***Chapter 6*** [~~7.090(3)~~].

(3) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).

Section 4. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Personal Service Contract Review Subcommittee. The subcommittee shall be composed of seven (7) members [~~which shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible~~]. ***Two (2) members shall be appointed by the President of the Senate, two (2) members by the Speaker of the House, one (1) member by the Minority Floor Leader of the Senate, one (1) member by the Minority Floor Leader of the House, and one (1) member by the Legislative Research Commission. All members shall be appointed during each organizational session and shall serve at the pleasure of their appointing authority.*** [~~The Legislative Research Commission shall appoint the members of the subcommittee from the membership of the General~~

~~Assembly for terms of two (2) years, and~~] The members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled ***in the same manner as the original appointment*** [~~by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy~~].

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS ***Chapter 6*** [~~7.090(3)~~].

(3) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts received by the Legislative Research Commission shall be submitted to the subcommittee to:

(a) Examine the stated need for the contract service;

(b) Examine whether the service could or should be performed by state personnel; and

(c) Examine the cost and duration of the contract. If the subcommittee believes that the contract service, other than an emergency contract approved by the Governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall attach a written notation of the reasons for its disapproval or objection to the personal service contract and shall return the personal service contract to the secretary of the Finance and Administration Cabinet. The subcommittee shall give notice of such disapproval or objection to the director of the Legislative Research Commission. The subcommittee shall act on a personal service contract submitted to the Legislative Research Commission within forty-five (45) days of the submission of the personal service contract.

(5) Upon receipt of the subcommittee's disapproval or objection to a personal service contract, the secretary of the Finance and Administration Cabinet shall determine whether a personal service contract:

(a) Shall be revised to comply with the objections of the subcommittee;

(b) Shall be cancelled if disapproved by the subcommittee; or

(c) Shall remain effective as originally approved by the Finance and Administration Cabinet.

(6) The secretary of the Finance and Administration Cabinet shall notify the subcommittee of the action taken on personal service contracts referred to the Finance and Administration Cabinet by the subcommittee within thirty (30) days from the date the contracts were reviewed by the subcommittee.

(7) The subcommittee shall report monthly to the Legislative Research Commission all actions taken on personal service contracts by the secretary of the Finance and Administration Cabinet and the subcommittee.

The Committee Amendment No. 1 to **SB 297** is as follows:

On page 1, line 13, by deleting "***at the pleasure of their appointing authority***" and by removing the opening bracket and by removing the strikethroughs from "~~for a term of~~"; and

On page 1, line 14, by removing the strikethroughs and the closing bracket; and

On page 3, line 5, by deleting "***and shall serve at the pleasure of their appointing***"; and

On page 3, line 6, by deleting "***authority.***"; and

On page 3, line 7, by placing a closing bracket after "~~subcommittee~~" and by removing the strikethroughs from "~~for terms of~~"; and

On page 3, line 8, by removing the strikethroughs from "~~two (2) years~~" and by inserting an underlined period after "~~years~~" and by placing an opening bracket before the comma; and

On page 3, line 27, by deleting "***and shall serve at the pleasure of***"; and

On page 4, line 1, by deleting "***their appointing authority***"; and

On page 4, line 4, by placing a closing bracket after "~~subcommittee~~" and by removing the strikethroughs from "~~for~~"; and

On page 4, line 5, by removing the strikethroughs from "~~terms of two (2) years~~" and by removing the closing bracket; and

On page 4, line 26, by deleting "***and shall serve at the pleasure of their appointing***"; and

On page 4, line 27, by deleting "***authority.***"; and

On page 5, line 1, by placing a closing bracket after "~~Assembly~~" and by removing the strikethroughs from "~~for terms of two (2)~~"; and

On page 5, line 2, by inserting an underlined period after "~~years~~" and by removing the strikethroughs and by placing an opening bracket before the comma.

The Committee on Appropriations and Revenue reported **SB 164**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 170**, by Representative Lewis:

On page 2, Following line 8, By adding the following new sections:

"Section 2. KRS 211.355 is amended to read as follows:

(1) Any local board of health ~~[authorized to serve as agent of the Cabinet for Human Resources for the issuance of permits for on-site sewage disposal systems]~~ may set a schedule of fees reasonably related to the cost of administering programs including:

  (a) Inspections incidental to construction, installation, ~~[and]~~ alteration***, or repair*** of on-site sewage disposal systems; and

  (b) Inspections incidental to maintenance and operation of on-site sewage disposal systems.

(2) ~~[Such]~~ Fees shall be designed to ~~[fully]~~ cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of ***the*** ~~[said]~~ program.

(3) Nothing in this section shall authorize ~~[or allow]~~ the cabinet to inspect any on-site sewage disposal system constructed prior to July 15, 1986, unless ***the*** ~~[such]~~ inspection is deemed necessary ***to abate a public health nuisance*** ~~[due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint]~~.

Section 3. KRS 211.370 is amended to read as follows:

Local health departments ~~[The commissioner of the Department for Health Services shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on site sewage disposal systems. Actions by the local board of health]~~ shall comply with the ***administrative*** regulations ***promulgated*** ~~[established]~~ by the cabinet ***pursuant to KRS Chapter 13A*** relating to on-site sewage disposal systems. ~~[The local board of health shall include in the written request a procedure for administering this section.]~~ The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class and in urban counties, the local board of health may adopt regulations relating to the proper construction, installation, ~~[and]~~ alteration***, or repair*** of on-site sewage disposal systems which are more stringent than the ***administrative*** regulations adopted by the cabinet."

Floor Amendment No. 3 to **SB 238**, by Representative Rapier:

On page 18, line 19, after "Section 9.", by adding the following:

"KRS 157.440 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection (12)(a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.

  (b) ***To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12) and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment . The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420.***

  (c) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(10) or to the recall provisions of KRS 160.470(11).

(d)[~~(c)~~]A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

(2) A district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of subsection (1) of KRS 160.477, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

(3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(4) Notwithstanding the limitations contained in subsection (3) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.

(5) The chief state school officer shall certify the compensating tax rate to the levying authorities.

Section 10. KRS 157.620 is amended to read as follows:

(1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities ***as defined by KRS 157.440***. [~~The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12). If the current levy of a district exceeds the required thirty cents ($0.30) and the five cents ($0.05), no additional tax shall be required. However, not less than five cents ($0.05) shall be committed under this subsection. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment when committed to debt service.~~] A district that levies the five cents ($0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.

(b) On July 29, 1985, and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly, the State Board for Elementary and Secondary Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the State Board for Elementary and Secondary Education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The State Board for Elementary and Secondary Education shall conduct public hearings on all amendments to approved plans.

(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the State Board for Elementary and Secondary Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.

Section 11."

Orders of the Day (Continued)

HCR 108 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HCR 108** be adopted.

On the roll call the vote was: Yeas 81, Nays 2. (See March 24, 1994 roll call on **HCR 108** - Appendix)

HCR 108 was adopted.

Representative Long moved that the vote by which **HCR 108** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the adoption **HR 106**.

HR 106 was adopted by voice vote.

HB 239, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 239** is as follows:

HB 239, AN ACT relating to refunding bonds which finance floating debt of cities and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.210 is amended to read as follows:

No county, city, or taxing district shall issue and offer to sell any of its bonds or obligations until the issuance [~~thereof~~] has been approved as provided in KRS 66.310, where applicable to a county, or by a Circuit Court of competent jurisdiction, declaring the bonds or obligations are based upon and cover a valid indebtedness of the county, city, or taxing district within the constitutional limitation governing the creation of the indebtedness***, except that a city may issue bonds or obligations under KRS 66.170 without the approval required by this section to refund floating indebtedness created by the mandates of KRS 78.510 to 78.852. A city may only issue bonds or obligations to refund floating indebtedness if the issuance will result in a lower rate of interest per annum and will not extend the term of the original obligation***. Any bond sold, assigned, or transferred without being so approved in advance of its issuance is void, and shall not thereafter, directly or indirectly, be assumed or paid by the county, city, or taxing district.

Section 2. KRS 66.170 is amended to read as follows:

"Floating indebtedness" means the amount determined as of the last day of a fiscal year, by which general fund expenditures and obligations exceeded general fund revenues during a fiscal year in which a budget was adopted based on reasonable assumptions of expenses and revenues. Subject to the provisions of KRS 66.210 and 66.220, any city may issue bonds to fund its valid floating debt or to refund its valid outstanding bonds. [~~Bonds so issued shall bear interest at not more than six percent (6%) per annum, and shall not be sold for less than par and accrued interest.~~] The city, at the time of issuing the bonds, shall provide for the collection of an annual tax sufficient to pay the interest on the bonds, and to create a sinking fund for their payment within not more than forty (40) years from the date of issuance. ***The provisions of KRS 58.190 shall apply to any bonds or obligations issued pursuant to this section.***

Section 3. Whereas the refunding of floating debt at current interest rates could result in great financial savings to cities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 239** is as follows:

On page 1, line 9, after "***78.852***", by deleting the remainder of line 9 and all the underlined language on lines 10 and 11, and inserting in lieu thereof the following:

"***, if the bonds or obligations issued bear interest at a lower rate per annum, mature no later than the original obligation, and are issued in an amount that is no more than the excess of general fund expenses over general fund***

revenues, determined as of the last day of a fiscal year"; and

On page 1, lines 15 through 18, by deleting all the underlined language.

Representative Donnermeyer moved that the House concur in the Senate Committee Substitute to **HB 239**. Agreed.

Representative Donnermeyer moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 239**. Agreed

Representative Donnermeyer moved that **HB 239** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 24, 1994 roll call on **HB 239** - Appendix)

HB 239, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

HB 315, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 315** is as follows:

On page 2, line 16, delete "***video teleconference shall be a regular meeting of a public agency. A video***" and insert in lieu thereof "***public agency may conduct any meeting, other than a closed session, through video teleconference.***"

On page 2, delete line 17 in its entirety

Representative Donnermeyer moved that the House concur in Senate Committee Amendment No. 1 to **HB 315**. Agreed.

Representative Donnermeyer moved that **HB 315**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 24, 1994 roll call on **HB 315** - Appendix)

HB 315, as amended by the Senate, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 315**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 238**, by Representative B. Smith:

On page 18, line 19, after "Section 9.", by adding the following:

"KRS 158.6453 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. ***The assessment program shall not include more than one (1) portfolio at the fourth grade level that shall be writing and there shall be a math portfolio required for the fifth grade.*** The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;

(b) Direct the development of the interim and full-scale assessment program; and

(c) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure

student progress.

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations.

Section 10.".

Orders of the Day (Continued)

HB 115, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 115** is as follows:

On page 41, after line 7, by inserting the following:

"Section 19. KRS 15.255 is amended to read as follows:

(1) The Department of Law shall have the following powers, duties and functions:

(a) To prevent or remedy damage to the environment caused by any person, group, partnership, association, body corporate or politic, or any agency, department, board, commission, division or authority, whether state or federal, or by commencing or intervening in any suit or action in state or federal courts, whether civil or criminal, to enforce any statute, ordinance, bylaw or regulation, or to secure any common-law right or remedy;

(b) To counsel state agencies and commissions given the responsibility over environmental concerns including but not limited to the Natural Resources and Environmental Protection Cabinet, Department of Mines and Minerals, and the Public Service Commission;

(c) To exercise the common-law powers of the Attorney General in protecting the environment; [~~and~~]

(d) To bring public nuisance and other actions in Circuit Courts in the name of the Commonwealth upon complaint by private citizens, when in the opinion of the Attorney General the activity or activities complained of may have a substantial impact upon the environment of the Commonwealth***; and***

(e) To develop guidelines related to the proper investigation of sexual misconduct by professionals which may be adopted by professional licensure boards.

(2) Nothing in this section shall be interpreted to derogate from any existing common-law or statutory right or remedy against damage to the environment."

Representative Damron moved that the House concur in Senate Floor Amendment No. 1 to **HB 115**. Agreed.

Representative Damron moved that **HB 115**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 24, 1994 roll call on **HB 115** - Appendix)

HB 115, as amended by the Senate, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 115**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 84, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 84** is as follows:

On page 8, line 8 by removing the brackets and strike throughs; and

On page 8, line 9 by deleting the new language; and

On page 8, line 10 by deleting the new language; and

On page 8, line 11 by deleting the new language; and

On page 8, line 12 by deleting the new language; and

On page 8, line 13 by deleting the new language.

The Senate Floor Amendment No. 2 to **HB 84** is as follows:

On page 10, by deleting lines 15 and 16 and inserting the following "Section 4. The provisions of Section 3 of this Act shall apply for the 1994 tax assessment year.".

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 84**. Agreed.

Representative Long moved that the House concur in Senate Floor Amendment No. 2 to **HB 84**. Agreed.

Representative Long moved that **HB 84**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 74, Nays 16. (See March 24, 1994 roll call on **HB 84** - Appendix)

HB 84, as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 84**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 211, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 211** is as follows:

On page 4, lines 21 and 22, beginning after "156.095" on line 21, by deleting the brackets and strikethroughs;

On page 7, line 12, after "Section 2.", by deleting the remainder of the line, and lines 13 to 27 in their entirety;

On page 8, by deleting lines 1 to 27, in their entirety;

On page 9, by deleting lines 1 to 27, in their entirety;

On page 10, by deleting lines 1 to 21, in their entirety;

On page 7, line 12, after "Section 2.", by adding the following:

"KRS 156.0951 is amended to read as follows:

(1) During the 1990-91 school year, the school district shall receive a planning grant to be used in conjunction with other districts to plan for professional development activities through the 1994-95 school year. By June 30, 1991, each district, except those districts with an enrollment of twenty thousand (20,000) or more students, shall have joined a consortium involving two (2) or more districts and shall have submitted a preliminary professional development plan to the Department of Education. The plan shall describe the way the consortium will utilize the professional development activities available from the Department of Education described in KRS 156.095 during the 1991-92 school year and outline in general terms the types of professional development and the delivery mechanism which will be used during the 1992-93, 1993-94, and 1994-95 school years. When a consortium is operational, a consortium plan may replace plans for individual districts which are members of the consortium.

(2) During the school years 1991-92 through 1994-95, the consortia shall receive the districts' professional development funds***, except for the allotment to school councils made pursuant to KRS 160.345,*** to provide a high quality, coordinated professional development program to the staff of the member districts.

(3) After July 1, 1995, a school district shall be allowed to withdraw from the consortium and expend its professional development funds on any professional development activities it chooses."

Representative Bentley moved that the House concur in Senate Committee Amendment No. 1 to **HB 211**. Agreed.

Representative Bentley moved that **HB 211**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 63, Nays 23. (See March 24, 1994 roll call on **HB 211** - Appendix)

HB 211, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 211**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 64, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 64** is as follows:

On page 2, after line 24, by inserting the following:

"***public records exempted from inspection as provided by KRS 61.878 or***"; and

On page 6, line 17 after the word "***may***" by inserting "***at its discretion provide the requested format and***"; and

On page 6, line 19 after "***(4) (a)***" by inserting "***Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes,***"

On page 6, line 20 after the word "***fee***" by deleting "***based on the principle of sharing the costs incurred by the agency in creating and maintaining those public records which are to be used for commercial purposes***"

On page 7, line 3 by deleting "***shall***" and inserting "***may***" in lieu thereof; and

On page 7, line 3 after the word "***on***" by deleting "***the***" and inserting "***one or both of the following***"; and

On page 7, line 5 by deleting the word "***and***"; and

On page 8, after line 3, by inserting

"Section 5. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. Records confidentially disclosed to an agency, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records, and which are compiled and maintained:

a. In conjunction with an application for a loan;

b. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

c. For the grant or review of a license to do business.

2. The exemptions provided for in subparagraph 1. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) ***Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;***

(f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(g)[~~(f)~~] Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again;

(h)[~~(g)~~] Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(i)[~~(h)~~] Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(j)[~~(i)~~] Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(k)[~~(j)~~] All public records or information the disclosure of which is prohibited by federal law or regulation; and

(l)[~~(k)~~] Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores and preliminary and other supporting documentation. A public agency employee, including university employees, applicant or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function."

On page 8, line 4, after "Section" by deleting "5" and inserting in lieu thereof "6" and renumbering subsequent sections accordingly.

Representative Donnermeyer moved that the House concur in Senate Committee Amendment No. 1 to **HB 64**. Agreed.

Representative Donnermeyer moved that **HB 64**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 24, 1994 roll call on **HB 64** - Appendix)

HB 64, as amended by the Senate, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 64**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 282** is as follows:

On page 13, line 17, after "*cabinet;*", by inserting "*and*"; and
on line 18, after "*(d)*" by deleting all the text thereafter; and
on line 19, by deleting all the text thereon; and
on line 20, before "*Assist*" by deleting "*(e)*".

The Senate Floor Amendment No. 2 to **HB 282** is as follows:

On page 11, starting on line 5, by deleting all of lines 5 through 11, and replacing it with the following:

"*(1) If the percentages specified in Section 2 of this Act are not achieved by the publishers on a state-wide basis on the dates specified, as shown by the reports submitted to the Cabinet in accordance with Section 4 of this Act, each publisher shall meet the recycled content goals.*

(2) Each publisher who does not meet the target recycled content goals shall be deemed to have met the recycling goals in Section 2 by demonstrating that he is implementing one or more of the following:

(a) Purchasing newspaper with a recycled content;

(b) Developing a collection program or participating in local recycling initiatives to recycle newsprint; or

(c) Participating in other recycling programs approved by the Cabinet.

(3) A publisher who is unable to demonstrate that he is achieving the goals in Section 2 and is not participating in a recycling program as outlined in subsection (2) of this Section shall pay a newsprint recycling fee. The fee shall be based on one percent (1%) of the total cost of the newsprint each publisher uses annually, multiplied by the recycling goal, minus the actual amount of recycled newsprint documented."

Representative Brown moved that the House refuse to concur in Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 to **HB 282**. Agreed.

HB 225, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 225** is as follows:

HB 225, AN ACT relating to damaged motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that purchasers when buying vehicles are entitled to know if the vehicle has sustained prior severe damage. The most feasible mechanism for conveying that information is a designation on the title that the vehicle has previously sustained severe damage or has been rebuilt after being declared "junk," "salvage," or "water damaged."

SECTION 2. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context otherwise requires:

(1) "Brand" means a designation affixed to a motor vehicle title that establishes a portion of the history of the motor vehicle and that shall be fixed to all subsequently issued titles for that vehicle;

(2) "Dealer" means a person or business as defined in KRS 190.010 who sells or offers for sale a motor vehicle;

(3) "Junk vehicle" means a vehicle which meets the description set forth in KRS 186A.295(1)(a);

(4) "Motor vehicle" means a motor vehicle as defined in KRS 186.010(8)(a) and (b);

(5) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest;

(6) "Rebuilt vehicle" means a vehicle that has been repaired to a road worthy condition after having been registered as a salvage vehicle pursuant to Section 3 of this Act, or a similar salvage designation from another licensing jurisdiction; and

(7) "Water damage" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

Section 3. KRS 186A.335 is amended to read as follows:

(1) A salvage title shall be obtained by the owner ***of a*** [~~for any~~] motor vehicle ***that meets the following definition of a salvage vehicle:***

(a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.

(b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.

(c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed [~~subject to titling and registration pursuant to this chapter which is deemed to have damages of seventy-five percent (75%) or more of NADA book value. Provided, however, that For the purposes of this chapter, a motor vehicle on which ownership has been transferred to an insurance company through payment of damages, pursuant to subsection (1) of this section, the insurance company making the payment of damages shall be deemed the owner of such vehicle~~].

(2) The owner or ***an*** [~~its~~] authorized agent ***of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section*** shall, within fifteen (15) days from the loss or settlement of the loss, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a title.

(4) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. [~~Under no circumstances shall any~~] ***A*** vehicle ***shall not*** be issued a registration for highway use as long as a salvage title is in force.

(5) The only ***time*** [~~instance under which~~] a vehicle with a salvage title may be operated upon the highways of the

Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The owner of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of Section 3 of this Act and has been issued a salvage certificate of title in Kentucky, or the equivalent thereof by another licensing jurisdiction, and has been rebuilt, may make application for a new certificate of title pursuant to KRS 186.115. The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A governing the form of application.

(2) Upon receipt of a salvage certificate of title issued pursuant to KRS 186A.335 or subsection (5) of this section, or similar title issued by another state, and proof of passing the inspection required by KRS 186A.115, the cabinet shall issue a new certificate of title with the words "rebuilt vehicle" printed on the face of the title. The brand shall be carried forward and printed in the appropriate section on the face of all titles issued thereafter for that motor vehicle.

(3) If ownership of a motor vehicle has been transferred to an insurance company through payment of damages, the insurance company making the payment of damages shall be deemed the owner of the vehicle.

(4) The owner of a water damaged vehicle shall make application to the cabinet for a salvage certificate of title as provided for in Section 3 of this Act. The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as water damaged or other similar designation who is making application for a Kentucky title shall be issued a title with the words "water damaged" printed on the face of the title.

(5) A Kentucky salvage certificate of title may be issued from an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification with the following provisions:

(a) The out-of-state junking certificate of title or other ownership certificate shall be an original, secure document.

(b) The applicant shall submit a minimum of two (2) photographs of the motor vehicle showing the damage to the motor vehicle. The photographs shall be included in the application for a salvage certificate of title.

(c) The applicant shall submit a minimum of two (2) notarized estimates of damage verifying that the condition of the vehicle which has been issued the junking certificate constitutes less than seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Auto Dealers' Association N.A.D.A price guide.

(6) (a) When an insurance company makes a claim settlement on a vehicle that has been stolen and recovered, if the vehicle meets the definition of a salvage vehicle as set forth in KRS 186A.335, the company shall apply for a salvage certificate of title as provided for in Section 3 of this Act.

Upon receipt of this information, the cabinet shall issue the company a certificate of title to replace a salvage certificate of title. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A regarding the forms and any additional information which insurance companies shall be required to obtain and submit when seeking a certificate of title to replace a salvage certificate of title.

(b) In claim settlements that do not involve transfer of the vehicle to the insurance company, an insurer shall not render payment on a damage claim for a vehicle whose damage meets or exceeds seventy-five percent (75%) of the value of the vehicle, until the insurer has received proof that the owner has surrendered the title or has applied for a salvage certificate of title as set forth in Section 3 of this Act. The owner shall apply for a salvage certificate of title within three (3) working days of the agreed settlement.

(c) An insurance company shall not refuse coverage to, and shall not reclassify coverage of, a vehicle that has been issued a rebuilt title pursuant to the provisions of this section.

(7) A motor vehicle owner or a motor vehicle dealer licensed in this state who offers for sale, trade, or transfer a motor vehicle which carries a title brand, as set forth in subsection (2) of this section, shall disclose the nature of the brand to any prospective buyer or transferee, prior to the sale, and according to the following:

(a) Dealer disclosure shall be located on the previous consumer-owner sticker provided for in KRS 190.080. The sticker notification shall appear in a color different from that of the previous consumer-owner sticker and shall be set apart from other information required by KRS 190.080. The sticker wording shall be printed in at least ten (10) point, bold face type, on a background of obviously different color, and shall include the following: "THIS IS A REBUILT VEHICLE." This disclosure information shall not appear on previous consumer-owner stickers for vehicles that do not have a branded title. Dealer disclosure shall also be located on a buyer's notification form to be approved by the Transportation Cabinet. The form shall inform the buyer that the vehicle is a rebuilt vehicle and may include any other information the cabinet deems necessary.

(b) Nondealer disclosure shall be made on the vehicle transaction record form provided for by KRS 186A.060.

The cabinet shall design the form so that disclosure information appears near the beginning and informs the buyer that the vehicle is a rebuilt vehicle.

(8) Failure of a dealer to procure the buyer's acknowledgment signature on the buyer's notification form or failure of any person other than a dealer to procure the buyer's acknowledgment signature on the vehicle transaction record form shall render the sale voidable at the election of the buyer. The election to render the sale voidable shall be limited to forty-five (45) days after issuance of the title. This provision shall not bar any other remedies otherwise available to the purchaser.

(9) The notification provisions of this section shall not apply to motor vehicles more than ten (10) model years old.

(10) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A, regarding the administration of the title branding procedure within ninety (90) days from the effective date of this Act. The administrative regulations may include designation of additional brands which provide significant information to the owner.

SECTION 5. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

An individual or a dealer required to be licensed pursuant to KRS Chapter 190 shall disclose all damages to a motor vehicle which result in repairs or repair estimates that exceed three hundred dollars ($300) and that occur while the motor vehicle is in his possession and prior to delivery to a purchaser. Disclosure shall be in writing and shall require the purchaser's signature acknowledging the disclosure of damages.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of Sections 2, 3, and 4 of this Act, if the United States Department of Transportation requires a uniform method for titling salvage and junk vehicles, the Kentucky Transportation Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to bring the provisions of Sections 2, 3, and 4 into compliance with federal law.

Section 7. KRS 186A.990 is amended to read as follows:

(1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives ~~[such]~~ information in connection with his review of ~~[such]~~ applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.

(2) Any person who violates KRS 186A.260 or 186A.275 to 186A.285 shall be guilty of a Class D felony.

(3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D felony.

(4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one (1) to which it was legitimately and lawfully issued, shall be guilty of a Class B misdemeanor.

(5) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a Class A misdemeanor.

(6) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.

(7) Any person who violates the disclosure provisions of subsection (7) of Section 4 of this Act shall be guilty of a Class A misdemeanor.

Representative Cyrus moved that the House concur in Senate Committee Substitute to **HB 225**. Agreed.

Representative Cyrus moved that **HB 225**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 82, Nays 0. (See March 24, 1994 roll call on **HB 225** - Appendix)

HB 225, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 225**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 41, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 41** is as follows:

On page 2, after line 23, insert a new Section 2 to read as follows:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

Every holder of a commercial driver's license, issued by Kentucky or another licensing jurisdiction, shall observe traffic

rules and regulations of the Commonwealth. If a holder of a commercial driver's license, issued by Kentucky or another licensing jurisdiction, receives a citation for a moving or nonmoving traffic violation while operating a commercial vehicle in the Commonwealth, the clerk of the court in which the holder of the commercial driver's license was convicted shall, within fifteen (15) days of the conviction, notify the motor carrier under whose permit the holder was operating, of the citation and conviction."

Representative Lee moved that the House concur in Senate Floor Amendment No. 1 to **HB 41**. Agreed.

Representative Lee moved that **HB 41**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 82, Nays 0. (See March 24, 1994 roll call on **HB 41** - Appendix)

HB 41, as amended by the Senate, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 41**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 558, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 558** is as follows:

On page 2, at the beginning of line 11, add a new subsection (4) as follows:

"*(4) Any person who entered into a cooperative agreement may terminate it upon submitted written notice to the Department of Highways.*"

Representative Little moved that the House concur in Senate Committee Amendment No. 1 to **HB 558**. Agreed.

Representative Little moved that **HB 558**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 24, 1994 roll call on **HB 558** - Appendix)

HB 558, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 558**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 387, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 387** is as follows:

On page 19, line 6, after "*The*" be inserting "*permit*".

Representative Bowling moved that the House concur in Senate Committee Amendment No. 1 to **HB 387**. Agreed.

Representative Bowling moved that **HB 387**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 24, 1994 roll call on **HB 387** - Appendix)

HB 387, as amended by the Senate, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 387**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 95, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 95** is as follows:

HB 95, AN ACT relating to prosecution of crimes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.760 is amended to read as follows:

(1) Each Commonwealth's attorney shall, during the calendar year 1977 and through June 30, 1978, be entitled to at least the number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, which he had or was entitled to at the number and salary level in effect on December 1, 1976.

(2) The number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) All assistant Commonwealth's attorneys shall be licensed practicing attorneys. The full-time assistant Commonwealth's attorneys shall not be allowed to engage in the private practice of law.

(4) All salaries paid to personnel appointed hereunder shall be paid from the State Treasury. *The* [~~Such~~] salaries shall be commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the state Department of Personnel, pursuant to KRS 64.640.

(5) The fiscal court or urban-county government in the county or counties that comprise the judicial circuit shall be responsible for providing the office of the Commonwealth's attorney with an adequate grand jury room and witness rooms.

(6) (a) Each Commonwealth's attorney shall be authorized to employ individually or jointly with one or more other Commonwealth's attorneys at least one (1) victim advocate to counsel and assist crime victims as defined in KRS 421.500.

(b) An individual employed as a victim advocate shall be a person who by a combination of education, professional qualification, training, and experience is qualified to perform the duties of this position. The victim advocate shall be an individual at least eighteen (18) years of age, of good moral character, with at least two (2) years of experience working in the human services field in a position requiring professional contact with children, who has:

1. Received a baccalaureate degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice, or other human service field; or

2. Received a high school diploma or equivalency certificate, and, in addition to the experience required in this subsection, has at least four (4) years experience working in the human services field.

(c) Each Commonwealth's attorney who employs an individual to serve as a victim advocate shall develop a written job description which describes the duties of the position. Each victim advocate shall perform those duties necessary to insure compliance with the crime victim's bill of rights contained in KRS 421.500 to 421.530. No victim advocate shall engage in political activities while in the course of performing his duties as victim advocate or the practice of law as defined in KRS 524.130. The creation and funding of any new personnel position shall be reviewed and approved by the Prosecutors Advisory Council.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Prosecutors Advisory Council may apply for and receive funds, public or private, for the purpose of assisting Commonwealth's and county attorneys in providing crime victim assistance or in criminal prosecution. The council may provide matching funds as a condition of any grant.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

Pursuant to KRS 431.600, each Commonwealth's attorney and each county attorney shall assist any child sexual abuse multidisciplinary team established in his circuit or county, unless the Prosecutors Advisory Council has voted to relieve him of this responsibility.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.

(2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for Human Resources, the commissioner of the Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.

(3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.

(4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.

(5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.

(6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.

(7) The public report shall not contain the name or identifying information of a victim or person not formally charged

with the commission of child sexual abuse. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.

(8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

Representative Mason moved that the House concur in Senate Committee Substitute to **HB 95**. Agreed.

Representative Mason moved that **HB 95**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 24, 1994 roll call on **HB 95** - Appendix)

HB 95, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 95**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 183, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 183** is as follows:

On page 3, line 13, by deleting "***one hundred percent (100%)***" and by substituting therefor "***thirty-five percent (35%)***"; and

on page 3, line 17, by deleting "***legislator***" and by substituting therefor "***member***"; and

on page 5, line 8, by inserting after the word "system" the words "***thirty-five percent (35%)***"; and

on page 5, line 8, by bracketing and striking through "fifty"; and

on page 5, line 9, by bracketing and striking through "percent (50%)"; and

on page 9, after line 15, by adding the following:

"***(7) A member may, before retirement, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:***

(a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.

(b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

Section 5. KRS 21.380 is amended to read as follows:

The normal retirement date or age of a member shall be his sixty-fifth birthday***, but the normal retirement age shall be reduced by one (1) year, but no more than five (5) years total, for:***

(a) Each five (5) years of service credit in the plan; and

(b) Each year of service credit the member has earned beyond that needed to receive a retirement benefit of one hundred percent (100%) of final compensation.

(2) [~~; however,~~] KRS 21.350 to 21.480 do not require that a member retire at the normal retirement date.

Section 6. KRS 21.360 is amended to read as follows:

(1) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to five percent (5%) of his monthly official salary. The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, an amount equal to five percent (5%) of the monthly salary, as a voluntary contribution by the member towards the funding of the retirement system. ***The contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement***

benefits shall not be affected thereby.

(2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 may elect membership not later than August 31, 1990. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

(3) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees' Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees' Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees' Retirement System, except for the purpose of validating any other credit in that system. However, any credit he then has in the Kentucky Employees' Retirement System, earned for service in any capacity other than a judge, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees' Retirement System to the Judicial Retirement Plan, the Kentucky Employees' Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.

(4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.

(5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement System in accordance with this section, his membership in the Kentucky Employees' Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.

(6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

Section 7. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), ***21.360(1),*** 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525 and 61.552 for the Judicial Retirement Plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees' Retirement System, County Employees' Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680 (2)(a). A member of the Legislators' Retirement Plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above, to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.".

Representative McElroy moved that the House concur in Senate Committee Amendment No. 1 to **HB 183**. Agreed.

Representative McElroy moved that **HB 183**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 70, Nays 19. (See March 24, 1994 roll call on **HB 183** - Appendix)

HB 183, as amended by the Senate, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 183**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 185**, by Representative Barrows:

On page 1, by deleting the brackets and strike-throughs from the language appearing on lines 4 through 12; and

On page 1, line 6, after "the" the first time it appears, by inserting "***question calculated to inform the electorate of the substance of the amendment which is prepared by the General Assembly or the Attorney General***" and by placing brackets around and striking through "text of the proposed amendment" and after "least" by inserting "***one (1) time in a newspaper***" and by placing an opening bracket before "two" and by striking through "two (2)"; and

On page 1, line 7, by striking through "times in two (2) newspapers" and by placing a closing bracket after "newspapers"; and

On page 1, line 11, after "the" the first time it appears by inserting "***first Tuesday in August***" and by placing brackets around and striking through "last Tuesday in July"; and

On page 1, line 17, after "***than***" by deleting "***the second***" and by inserting in lieu thereof "***fourteen (14) days preceding the first***"; and

On page 2, by deleting the brackets and strike-throughs from the language appearing on lines 5 through 7; and

On page 2, line 5, before "(4)", by inserting "***(5)***" and by placing brackets around and striking through "(4)".

Orders of the Day (Continued)

HB 546, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 546** is as follows:

On page 1, line 11, after the word "***shareholders,***" by inserting the following: "***members, officers, or directors of the firm,***";

on page 1, lines 11 and 12, "by deleting the phrase "***or other persons holding an ownership interest in the firm***";

on page 1, line 12, after the phrase "***employees of the firm***" by inserting a coma "***,***"; and

on page 1, line 13, after the word "***Commonwealth***" by inserting a coma "***,***".

Representative L. Clark moved that the House concur in Senate Floor Amendment No. 1 to **HB 546**. Agreed.

Representative L. Clark moved that **HB 546**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See March 24, 1994 roll call on **HB 546** - Appendix)

HB 546, as amended by the Senate, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 546**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 191, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 191** is as follows:

HB 191, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Department" means the Department for Social Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(6) "Child-caring facility" means any institution or group home other than a state facility, or one (1) certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption*,* or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency *licensed by the cabinet* other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(8) *"Adoption worker"* [~~"Child welfare worker"~~] means an employee of the cabinet designated as such by the secretary for human resources*, a* [~~or~~] social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, *adoption placement* services to children*, or a social worker employed by or under contract to a child-placing adoption agency*;

(9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(10) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children; [~~and~~]

(12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons*; and*

(13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption.

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the full legal effect of the consent, that the consenting person was not given or promised anything of value for the execution of the consent, or coerced in any way to execute the consent, and that the consent was freely, voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Name of the proposed adoptive parents;

(e) Total amount of money or the value of any remuneration received by the consenting person for any purpose related to the adoption and the name of the person paying the money or providing the remuneration;

(f) That the consenting person understands that the consent will be final and irrevocable twenty (20) days after the placement is approved or twenty 20) days after the execution of the consent if the placement was previously approved;

(g) Disposition of the child if the adoption is not adjudged;

(h) That the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(i) The procedure to withdraw the consent, including the names and addresses of the persons upon whom the withdrawal must be served;

(j) That the consenting person has received a "Notice of Withdrawal" form to be utilized if the consenting person thereafter desires to withdraw the consent;

(k) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person and a verified statement from that person that the consent has been reviewed with and fully explained to the consenting person; and

(l) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the name of the person paying the legal fees.

Section 2. KRS 199.470 is amended to read as follows:

(1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the Circuit Court of the county in which the petitioner resides.

(2) If the petitioner is married, the husband or wife ***shall*** ~~[must]~~ join in a petition for leave to adopt a child unless the petitioner is married to a biological parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, ***the*** ~~[such]~~ requirement may be waived.

(3) ***If*** ~~[No petition for the adoption of any child under the age of sixteen (16) shall be filed until after the child has lived continuously in the home of the petitioner for at least three (3) months immediately prior to the filing of the petition unless the child has been placed for adoption by the cabinet or an agency licensed to place children for adoption by the cabinet. In the case of]~~ a child ***is*** placed for adoption by the cabinet***, by*** ~~[or]~~ an agency licensed by the cabinet, ***or with written approval by the secretary of the cabinet,*** the petition may be filed at the time of placement. ***In all other adoptions, the petition shall not be filed until the child has resided continuously in the home of the petitioner for at least ninety (90) days immediately prior to the filing of the adoption petition.***

(4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a ~~[licensed]~~ child-placing institution or agency***,*** or by the cabinet, or the child has been placed with written approval of the secretary; but no ~~[such]~~ approval shall be necessary in the case of:

(a) A child sought to be adopted by a stepparent, grandparent, sister, brother, aunt***,*** or uncle; or

(b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the secretary.

(5) Subsection (4) of this section shall not apply to ~~[those]~~ children placed for adoption prior to June 14, 1962.

Section 3. KRS 199.473 is amended to read as follows:

(1) All persons other than a ~~[licensed]~~ child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. ***Prior to the approval*** ~~[Upon receipt]~~ of an application to place or receive a child, together with the fee required pursuant to subsection ***(6)*** ~~[(5)]~~ of this section, the secretary shall cause ***the*** ~~[an]~~ investigation to be made ***by a Cabinet for Human Resources social worker unless the applicant specifies in the application that the investigation shall be done by an adoption worker*** of the home and the background of the person or persons wishing to receive the child. ***The portion of the investigation pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker.*** The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The ***adoption*** ~~[child welfare]~~ worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case, reasons for the ***adoption*** ~~[child welfare]~~ worker's recommendation shall be given in writing. The recommendation of the ***adoption*** ~~[child welfare]~~ worker shall then be reviewed by the secretary. Based on the report and recommendation of the ***adoption*** ~~[child welfare]~~ worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching his decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint. If the application is refused, the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) ***Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. If the application is denied, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or such other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.***

(3) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent. ***The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents.*** The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

[~~(3) No person, association, or organization, other than the cabinet or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the Cabinet for Human Resources in carrying out its Aid to Dependent Children Program in accordance with KRS Chapter 205.~~]

(4) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or if permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants to receive him unless permission to do so is granted by the secretary or the action is ordered by a [~~Circuit Court, the~~] Kentucky court of ***competent jurisdiction*** [~~Appeals or Supreme Court of Kentucky~~].

(5) ***When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.***

(6) The secretary of the Cabinet for Human Resources shall be paid a nonrefundable fee of one hundred fifty dollars ($150) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special needs child as authorized in KRS 199.555.

(7)[~~(6)~~] Nothing in this statute shall be construed to limit the authority of the cabinet or a [~~licensed~~] child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 4. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The biological living parents of a child under eighteen (18), if the child is born in lawful wedlock***. If the child is born out of wedlock, its mother; and its father, if one (1) of the following requirements is met:***

1. He is known and voluntarily identified by the mother by affidavit;

2. Prior to the entry of a final order in a termination proceeding, he has acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;

3. He has caused his name to be affixed to the birth certificate of the child;

4. He has commenced a judicial proceeding claiming parental right;

5. He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

6. He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

A putative father shall not be made a party defendant if none of the requirements set forth above have been met, and a[~~, and its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, if the child is born out of wedlock, provided that no~~] biological parent ***shall not*** [~~need~~] be made a party defendant ***if*** [~~in the event~~] the parental rights of ***that*** [~~such~~] parent have been terminated under KRS Chapter 625, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one***.***[~~; and~~]

(d) If the care, custody***,*** and control of the child has been transferred to the cabinet, ***or*** any other individual ***or individuals***, institution***,*** or agency, then the cabinet, ***the*** [~~such~~] other individual ***or individuals***, institution***,*** or agency shall be named a party defendant***, unless the individual or individuals, or the institution or agency is also the petitioner***.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the cabinet, individual, institution or agency has custody of ***the*** [~~such~~] child, the service of process upon ***the*** [~~such~~] child shall be had by serving a copy of the summons in ***the***

[~~such~~] action upon the cabinet, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.

(3) If the child's biological living parents, if the child is born in lawful wedlock, or if the child is born out of wedlock, its mother, and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

Section 5. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

(a) The name, date, [~~and~~] place of birth, place of residence, and mailing address of each petitioner, and, if married, the date and place of their marriage;

(b) The name, date, [~~and~~] place of birth, place of residence, and mailing address, if known, of the child sought to be adopted;

(c) Relationship, if any, of the child to each petitioner;

(d) Full name by which the child shall be known after adoption;

(e) A full description of the property, if any, of the child so far as it *is* [~~be~~] known to the petitioner;

(f) The names of the parents of the child and the address of each living parent, if known.[~~, provided~~] The name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child.[~~, or~~] If certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;

(g) The name and address of the child's guardian, if any, or of the cabinet, institution, or agency having legal custody of the child;

(h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and

(i) If any fact [~~herein~~] required *by this subsection* to be alleged is unknown to the petitioners, *the* [~~such~~] lack of knowledge *shall* [~~must~~] be alleged.

(2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.

(3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written approval of the Secretary of the Cabinet for Human Resources or the secretary's designee shall be filed with the petition.

Section 6. KRS 199.500 is amended to read as follows:

(1) *An* [~~No~~] adoption shall *not* be granted without the *voluntary and informed* [~~sworn~~] consent of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that *the* [~~such~~] consent of the living parent or parents shall not be required if:

(a) *The* [~~Such~~] parent or parents have been adjudged mentally disabled and *the* [~~such~~] judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of *the* [~~such~~] parents have been terminated under KRS Chapter 625; [~~or~~]

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child*; or*

(d) The biological parent has not established parental rights as required by KRS 625.065.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for *the* [~~such~~] parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. [~~, provided that~~] The court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to such child.

(5) [~~In no case shall~~] An adoption *shall not* be granted or a consent for adoption be held valid if *the* [~~such~~] consent for adoption is given prior to *seventy-two (72) hours* [~~the fifth day~~] after the birth of the child. *A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable twenty (20) days after either the interstate or the intrastate placement approval by the secretary of the Cabinet for Human Resources, or twenty (20) days after the execution of the consent if placement approval was given prior to the signing of the consent.*

Section 7. KRS 199.510 is amended to read as follows:

(1) Upon filing a petition for the adoption of a minor child, the clerk of the court shall forward two (2) copies of the petition to the cabinet. The cabinet, or any person, agency or institution designated by it or the court shall, to the extent of available facilities, investigate and report in writing to the court:

(a) Whether the contents of the petition required by KRS 199.490 are true;

(b) Whether the proposed adoptive parents are financially able and morally fit to have the care, custody and training of the child; and

(c) Whether the adoption is to the best interest of the child and the child is suitable for adoption.

(2) The report of the cabinet or the designated person, agency or institution shall be filed with the court as soon as practicable but not later than one hundred-eighty (180) days ***from the placement of the child*** [~~in the event the petition was filed forthwith by virtue of cabinet placement or placement by an agency licensed by the cabinet~~] or ninety (90) days***,*** ***whichever is longer,*** [~~in the case of private placement~~] after the filing date of the petition unless for good cause the court by written order extends the period of time for filing the report. If the cabinet or the designated person, agency or institution is unable to make the report, it shall within ten (10) days of receipt of the petition notify the court of its inability to conduct the investigation, and the court may designate some other person, agency or institution to make the necessary investigation. If the court designates some other person, agency or institution, the clerk shall forward one (1) copy of the petition to such person, agency or institution and shall notify the cabinet of such other designation at the time he forwards the petition to the cabinet.

(3) If the cabinet is a party defendant, its reports, if it files no other pleadings, shall be considered its answer to the petition.

(4) The clerk's fee for copying and forwarding the copies of the petitions required by this section shall be taxed as a cost of the action.

Section 8. KRS 199.520 is amended to read as follows:

(1) After hearing the case***,*** the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child***;***[~~,~~] and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment***,*** the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference [~~whatsoever~~] to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. ***Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent*** [~~Except where a biological parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights~~].

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has ***the*** [~~such~~] information[~~,~~] to the adoptive parents and to the Circuit Court not later than the date of finalization of the adoption proceedings; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to ***that*** [~~such~~] person. [~~None of~~] The information shall ***not*** be made available if it is of [~~such~~] a nature that [~~it~~] would tend to identify the biological parents of ***the*** [~~such~~] adopted person except as provided in KRS 199.570 and 199.572.

Section 9. KRS 199.540 is amended to read as follows:

(1) ***If*** [~~Whenever~~] a child adopted under KRS 199.470 to 199.520 reveals definite traits of ethnological ancestry different from those of the adoptive parents, and of which the adoptive parents had no knowledge or information prior to the adoption, a petition setting forth ***the*** [~~such~~] facts may be filed by the original petitioner or the cabinet at any time within five (5) years after ***the*** [~~such~~] adoption with the court which decreed the adoption***.***[~~, and~~] If upon hearing the facts set forth in ***the*** [~~such~~] petition they are established, the [~~said~~] court may enter a decree of annulment of the adoption and setting aside any or all rights or obligations which may have accrued by reason of ***the*** [~~said~~] adoption.

(2) After the expiration of ***one (1) year*** [~~two (2) years~~] from the date of the entry of judgment of adoption, the validity thereof shall not be subject to attack in any ***action*** [~~procedure~~], collateral or direct, by reason of any irregularity ***or***

failure to comply with [~~in procedures had pursuant to~~] KRS 199.470 to 199.520*, either procedurally or substantively*.

SECTION 10. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent had inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision either:

(a) Granting the adoption without the biological parent's consent; or

(b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.

Section 11. KRS 199.570 is amended to read as follows:

(1) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of adoption. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for Human Resources of Kentucky full information as called for on forms furnished by the Cabinet for Human Resources, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for Human Resources shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for Human Resources in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. *If requested by the adoptive parents,* the new birth certificate when issued shall [~~not~~] contain the *location* [~~place~~] of birth, hospital and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for Human Resources shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for Human Resources shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. *If* [~~In the event~~] the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. *If* [~~In the event~~] the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of such child's birth.

(5) If any judgment of adoption is reversed, modified or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for Human Resources of ***the*** [~~such~~] reversal or modification and the effect of same, and ***the*** [~~thereupon such~~] cabinet shall make ***any necessary*** [~~such~~] changes[~~, if any,~~] in its records [~~as may be necessary by such reversal or modification~~].

Section 12. KRS 199.590 is amended to read as follows:

(1) ***A*** [~~No~~] person, corporation, or association shall ***not*** advertise in any manner that it will receive children for the purpose of adoption. ***A*** [~~nor shall any~~] newspaper published in the Commonwealth of Kentucky ***or*** [~~nor~~] any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky ***shall not*** contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) ***A*** [~~No~~] person, agency, institution, or intermediary ***shall not*** [~~may~~] sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. [~~Nothing in~~] This section shall ***not*** prohibit a [~~licensed~~] child-placing agency from charging a fee for adoption services. [~~Nothing in~~] This section shall ***not*** be construed to prohibit in vitro fertilization. For purposes of this section, "in vitro fertilization" means the process ***by which*** [~~whereby~~] an egg is removed from a woman, ***and*** [~~then~~] fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.

(3) ***No person, association, or organization, other than the cabinet or a child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. This subsection shall not be construed to limit the Cabinet for Human Resources in carrying out its Aid to Dependent Children Program in accordance with KRS Chapter 205. This section shall not be construed to prohibit private independent adoption or the right to seek legal services relating to a private independent adoption.***

(4) ***A*** [~~No~~] person, agency, institution, or intermediary shall ***not*** be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artificial insemination. ***A*** [~~No~~] person, agency, institution, or intermediary shall ***not*** receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.

(5) A person, organization, group, agency, or any legal entity, except a child-placing agency, shall not accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted. This section shall not interfere with the legitimate practice of law by an attorney.

(6)[~~(4)~~] In ***every*** [~~any~~] adoption [~~for which approval of the secretary is required under KRS 199.470(4)~~], the total amount of money paid ***by or on behalf of the adoptive parents for any purpose related to the adoption shall be made known to the court for approval or modification prior to a judgment for adoption. The adoptive parents and their attorney shall submit an affidavit to the court stating in detail each item paid including, but not limited to, any fees for legal services, placement services, and expenses of biological parent or parents***[~~, including attorney's fees, by adoptive parents for any purpose related to the adoption shall be made known to the court for approval or modification~~].

Section 13. KRS 199.990 is amended to read as follows:

(1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590 ***except subsection (2),*** or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(3) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than ***one hundred dollars ($100)*** [~~twenty dollars ($20)~~] nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(4) Any person who violates any of the provisions of KRS 199.896 shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.

(5) Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.

Section 14. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ..., a child." The petition may be filed by a parent.

(2) The petition for the voluntary termination of parental rights shall be filed in the Circuit Court of the county where the petitioner resides or is found and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex, date of birth***,*** and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet***,*** or authorized agency to whom custody is to be given has facilities available***,*** [~~and~~] is willing to receive the custody of the child***, and the person, if not excepted by KRS 199.470(4) or (5), has applied for the written permission of the secretary or the secretary's designee for the child's placement. This provision shall not affect the right of a court to grant temporary custody under Section 3 of this Act.***

(3) No petition may be filed under this chapter prior to ***three (3)*** [~~five (5)~~] days after the birth of the child.

Section 15. KRS 625.042 is amended to read as follows:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the Circuit Court shall set a date for a hearing.

(2) The Circuit Court shall require notice to be served upon the local representative of the cabinet in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual ***unless the placement has been approved by the cabinet*** [~~and not the cabinet or a licensed agency unless the cabinet has approved the placement~~]. ***It shall not be necessary to serve notice upon the cabinet if custody of the child is to be placed with the cabinet or with a child-placing agency.***

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the Circuit Court privately for the purpose of determining the facts.

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interests of the child shall be considered paramount.

(6) At the time of the hearing, the Circuit Court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

Section 16. KRS 625.043 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of ***the*** [~~such~~] parent and releasing the child from all legal obligations to ***the*** [~~such~~] parent and vesting care and custody of the child in ***the*** [~~such~~] person, agency***,*** or cabinet [~~as~~] the court believes is best qualified to receive custody.

(2) Upon consent by the Cabinet for Human Resources, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency[~~,~~] or child-caring facility licensed by the cabinet or in another person ***if*** [~~provided~~] all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. ***If the other person is not excepted by KRS 199.470(4) or (5), a grant of permanent custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.***

Section 17. KRS 625.090 is amended to read as follows:

(1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused or neglected child by the Circuit Court in this proceeding and that termination would be in the best interest of the child. No termination of parental rights shall be ordered unless the circuit court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than ***ninety (90) days*** [~~six (6) months~~];

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:

(a) Emotional illness, mental illness, or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing agency or child-caring facility, whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning ***the*** [~~such~~] services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(3) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

(4) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law and a decision as to each parent-respondent either:

(a) Terminating the right of ***the*** [~~such~~] parent; or

(b) Dismissing the petition and [~~in such event~~] stating whether the child shall be returned to the parent or shall remain in the custody of the state.

SECTION 18. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

(1) A parent desiring the termination of his or her parental rights and a transfer of the parental rights to a person, persons, or agency for the purpose of adoption may upon the filing of the petition request the Circuit Court to appoint an attorney to represent the parent and provide legal representation in the termination action. If the court determines pursuant to KRS Chapter 31 that the requesting parent is indigent, the court shall appoint an attorney to represent the parent. The attorney for the indigent parent shall receive a fee to be fixed by the court, not to exceed five hundred dollars ($500), and paid by the proposed adoptive parent, parents, or agency before the entry of a judgment of termination, except the attorney's fee shall be paid by the Finance and Administration Cabinet if termination is not granted.

(2) No adoptive parent, proposed adoptive parent, agency, or intermediary shall pay the attorney's fees of a biological parent for any purpose related to a termination action for the purpose of an adoption except as approved by the court.

(3) Any person who violates subsection (2) of this section shall be guilty of a Class A misdemeanor.

SECTION 19. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) No adoptive parent, proposed adoptive parent, agency, or intermediary shall pay the attorney's fees of a biological parent for any purpose related to an adoption action except as approved by the court.

(2) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 191** is as follows:

On page 2, lines 17 to 27, to delete the same and to insert in lieu thereof:

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. In the event the person was not represented by independent legal counsel, the consent shall be in writing, signed and sworn to by the consenting person and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;

(e) A statement that the consenting person understands that the consent will be final and irrevocable twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required;

(f) Disposition of the child if the adoption is not adjudged;

(g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(h) A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;

(i) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and

(j) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees."

On page 3, lines 1 to 26, to delete the same; and

On page 12, line 10, following "***consent***" to add "***, if approval is required***"; and

On page 12, line 22, following "later than" to insert "***ninety (90)***" and to place a bracket "[" before the word "one", and a bracket"]" after "(180)" and to strike through the intervening material; and

On page 12, line 25, to delete "***, whichever is longer,***"; and

On page 12, line 26, following "petition" to insert "***, whichever is longer,***"; and

On page 19, lines 25 to 27, to delete the same and to insert in lieu thereof:

"***(a) In every adoption proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parents for any purpose related to the adoption shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of expenses for the court's approval or modification.***

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the adoptive parents shall not have any claim against the adoptive parents for the amount not approved

[~~(4) In any adoption for which approval of the secretary is required under KRS 199.470(4), the total amount of money paid, including attorney's fees, by adoptive parents for any purpose related to the adoption shall be made known to the court for approval or modification~~]."

On page 20, lines 1 to 6 to delete the same, and

On page 25, lines 13 to 26, to delete the same and to insert in lieu thereof:

"***(1) A parent desiring the termination of his or her parental rights and a transfer of the parental rights to a person, persons, or agency for the purpose of adoption may prior to or upon the filing of the petition request the Circuit Court to appoint an attorney to represent the parent and provide legal representation in the termination action. If the court determines pursuant to KRS Chapter 31 that the requesting parent is indigent, the court shall appoint an attorney (within 48 hours) to represent the indigent parent. The attorney for the indigent parent shall receive a fee to be fixed by the court, not to exceed five hundred dollars ($500) and assessed as costs, and may order the costs to be paid by the proposed adoptive parent, parents, or agency before the entry of a judgment of termination, except the attorney's fee shall be paid by the Finance and Administration Cabinet if termination is not granted.***

(2) (a) In every voluntary termination proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parent for any purpose related to a termination of parental rights shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of the expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the prospective adoptive parents shall not have any claim against the prospective adoptive parents for the amount not approved."

On page 26, between lines 1 and 2, to insert the following:

"SECTION 19. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

"***(1) In a voluntary termination proceeding, an attorney shall not represent both the biological parents and the prospective adoptive parents.***

(2) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor.

SECTION 20. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) In an adoption proceeding, an attorney shall not represent both the biological parents and the prospective adoptive parents.

(2) Any person who violates subsection (1) of this section shall be guilty of a Class A misdemeanor."; and

On page 26, line 2, to delete "19" and to insert in lieu thereof "21".

Representative Johnson moved that the House concur in the Senate Committee Substitute to **HB 191**. Agreed.

Representative Johnson moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed

Representative Johnson moved that **HB 191** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See March 24, 1994 roll call on **HB 191** - Appendix)

HB 191, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 191**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to allow a meeting of the Committee on Labor and Industry upon recess. Agreed.

Representative Stumbo moved the when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., March 25, 1994. Agreed.

Recess

Representative Stumbo moved that the House recess for fifteen minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 6 to **SB 238**, by Representative Riner:

On page 18, line 19 after "Section 9." by adding the following:

"KRS 158.6453 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. ***The assessment program shall not include any test, questionnaire, survey, or examination containing any questions about the student's personal beliefs or practices in sex, family life, morality and religion, or any questions about his parents' or guardians' beliefs and practices in sex, family life, morality, and***

religion, unless the parent or guardian of the student is notified in writing that the test, questionnaire, survey, or examination is to be administered, and the parent or guardian of the student gives informed written permission for the student to take the test, and upon request, the parent or guardian has an opportunity to inspect the test, questionnaire, survey, or examination. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;

(b) Direct the development of the interim and full-scale assessment program; and

(c) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress.

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations.

SECTION 10. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Local school districts shall not administer or include on any test, questionnaire, survey, or examination containing any questions about the student's personal beliefs or practices in sex, family life, morality and religion, or any questions about his parents' or guardians' beliefs and practices in sex, family life, morality, and religion, unless the parent or guardian of the student is notified in writing that the test, questionnaire, survey, or examination is to be administered, and the parent or guardian of the student gives written permission for the student to take the test, and upon request, the parent or guardian has an opportunity to inspect the test, questionnaire, survey or examination.

Section 11.".

Floor Amendment No. 5 to **SB 238**, by Representative Riner:

On page 18, line 19 before "Section 9." by adding the following:

"*SECTION 9. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:*

(1) Except for the Department of Education and local school districts, no personally identifiable information on a student shall be released to any person, organization, or corporation without the informed written consent of the parent or guardian.

(2) Any contract to release personally identifiable information on a student in violation of this statute shall be null and void and unenforceable. The Department of Education shall not use public funds to pay for the contract when personally identifiable information is released in violation of this statute.

(3) The Commonwealth of Kentucky, the Department of Education, or any person who is found to have negotiated or approved the release of information or provided the information in violation of this statute shall be jointly and severally liable for damages."; and

On page 18, line 19 by changing "Section 9" to "Section 10.".

Report of Committees (Continued)

The Committee on Labor and Industry reported **SB 284**, with Committee Amendment attached thereto, and **SB 232** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 284, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against such other person to recover damages, or proceed both against the employer for compensation and such other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against such other person to recover damages, he shall give due and timely notice to the employer of the filing of such action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense.

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays such compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall such claim be barred by limitations, provided such claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this subsection as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this subsection or offers to accept lesser compensation than another contractor or supplier for that waiver of remedies.

The Committee Amendment No. 1 to **SB 284** is as follows:

On pages 1 and 2, by deleting Section 1. in its entirety and by inserting the following:

"PART 1

DEFINITIONS

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter***,*** unless the context otherwise requires:

(1) "Injury" means any work-related harmful change in the human organism, arising out of and in the course of employment, including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting ***the*** ~~[such]~~ disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease***, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury***.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which ***the*** claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims [~~under the direction and supervision of the Workers' Compensation Board~~].

(10) "Board" means the Workers' Compensation Board.

(11) "Disability" means a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employee is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employee's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with ***the*** [~~such~~] farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes ***the Employers Mutual Insurance Authority and*** every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger and surface mining sites, all activities performed at tipple or processing plants that clean, break, size, or treat coal, and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if ***the*** [~~such~~] acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether ***the*** [~~such~~] acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. [~~Provided~~] However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof.

(25) *(a) "Premiums received" for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. For policies with provisions for deductibles with effective dates on or after January 1, 1994, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy.*

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium" for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. For policies with provisions for deductibles with effective dates on or after January 1, 1994, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the ***commissioner*** [~~Workers' Compensation Board~~] using generally accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The ***commissioner*** [~~board~~] shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each [~~such~~] claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of ***the*** [~~such~~] claims using the adjusted weekly benefit shall then be calculated by the ***commissioner*** [~~board~~]. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The ***commissioner*** [~~board~~] shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from [~~board~~] records ***of the department*** and from the records of the Division of Unemployment Insurance. The ***commissioner*** [~~board~~] shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The ***commissioner*** [~~board~~] shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll, calculated using [~~board~~] records ***of***

the department and ***the*** Division of Unemployment Insurance data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the ***commissioner,*** [~~board~~] which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on ***the*** [~~such~~] lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the ***commissioner*** [~~board~~] pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured ***the*** [~~such~~] risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured***,*** he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection, except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

(29)[~~(26)~~] "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

PART 2

REORGANIZATION, ADMINISTRATION, AND OMBUDSMAN

Section 2. KRS 336.015 is amended to read as follows:

(1) The secretary of labor shall have the duties, responsibilities, power***,*** and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, ***workers' compensation,*** and all other matters [~~except workers' compensation~~] previously under the jurisdiction of the commissioner and Department of Labor.

(2) The Labor Cabinet shall consist of the Offices of the Secretary, General Counsel, Administrative Services, [~~and~~] Labor-Management Relations***; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission;***[~~,~~] and the Departments of Workplace Standards***,*** and [~~of~~] Workers' Claims. The commissioner of the Department of Workplace Standards ***and the Department of Workers' Claims*** within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet.

[~~(3) The secretary may not appoint personnel necessary to perform the functions of the Department of Workers' Claims.~~]

Section 3. KRS 336.020 is amended to read as follows:

(1) The Department of Workplace Standards shall be headed by a commissioner, and shall be divided for administrative purposes into the Divisions of Employment Standards and Mediations; Occupational Safety and Health Compliance; ***and*** Education and Training for Occupational Safety and Health[~~; and Special Fund~~].

(2) The Department of Workers' Claims shall be administered by a [~~Workers' Compensation Board, through a~~] commissioner ***and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Administrative Law Judges, Insurance, and Special Fund***.

Section 4. KRS 336.040 is amended to read as follows:

(1) The ***Labor Cabinet*** [~~department~~] shall exercise all administrative functions of the state concerned with employer-employee relationships, including ***the***[~~:~~

~~(a)~~] safety of workers; and

[~~(b) The~~] workers' compensation [~~Board~~].

(2) The department shall:

(a) Promote friendly and cooperative relations between employers and employees;

(b) Accumulate and publish industrial statistics and aid and encourage the development of new industries and the expansion of existing industries in Kentucky;

(c) Encourage, promote, and develop fair practices both by employers and employees; discourage and eliminate as far as practicable all unfair practices by either; and enforce laws relating to unfair practices;

(d) Foster, promote, and develop the welfare of both wage earners and industries in Kentucky;

(e) Improve working and living conditions of employees***,*** and advance their opportunities for profitable employment; and

(f) Inquire into the causes of accidental injuries and occupational diseases arising out of and in the course of employment, and advance measures for the prevention of accidents and occupational diseases and for the improvement of sanitary conditions in places of employment.

Section 5. KRS 342.1228 is amended to read as follows:

The Kentucky Workers' Compensation Funding Commission shall not be subject to the Governor's power of reorganization under KRS Chapter 12***, including attachment or transfer to another organizational unit or administrative body other than the Labor Cabinet***. The Governor may, however, recommend changes in the organization of the commission to the General Assembly at any regular or special session of the General Assembly.

Section 6. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386. [~~Provided, however, the commission shall not invest any of the funds collected pursuant to KRS 342.122 in any corporation, company, partnership, or other business entity, or any bank, investment service firm, or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa;~~]

(c) Report to the General Assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by ***the*** [~~such~~] mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each regular legislative session, changes deemed necessary in the level of the assessments imposed in KRS 342.122;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each regular legislative session, a proposed budget for the biennium beginning July 1 following the regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits***,*** independently or in cooperation with the Labor Cabinet or the Revenue Cabinet***,*** of all entities subject to the assessments imposed in KRS 342.122; and

(h) Report monthly to the ***Committees*** [~~Committee~~] on Appropriations and Revenue ***and on Labor and Industry*** its monthly expenditures of restricted agency funds and the nature of ***the*** [~~such~~] expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established***,*** including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management and Economic Analysis rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of ***the*** [~~such~~] funds.

(5) The commission shall be attached to the ***Labor*** [~~Revenue~~] Cabinet for administrative purposes only.

SECTION 7. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall establish an ombudsman program. The functions of the ombudsman shall include:

(a) Serving as an information source for employees, employers, medical, vocational, and rehabilitation personnel, carriers, and self-insurers;

(b) Responding to inquiries and complaints relative to the workers' compensation program;

(c) Advising all parties of their rights and obligations under this chapter; and

(d) Performing other duties as required by the commissioner through administrative regulations promulgated by the commissioner.

(2) The employee, employer, carrier, self-insured administrator, and medical provider shall promptly comply with reasonable information requests from an ombudsman.

(3) The ombudsman program shall be staffed with personnel trained in techniques performed by ombudsmen and who are familiar with medical and vocational rehabilitation principles and knowledgeable about the provisions of this chapter and applicable administrative regulations.

(4) A toll-free telephone number shall be provided throughout the Commonwealth to insure easy access by all parties to the ombudsman program.

Section 8. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of ***the*** [~~such~~] department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Office of Administration.
    - (d) Department of Corrections.
    - (e) Parole Board.
    - (f) Kentucky State Corrections Commission.
2. Education and Humanities Cabinet:
    - (a) Department of Education.
        - (1) State Board for Elementary and Secondary Education.
        - (2) Education Professional Standards Board.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Arts Council.
    - (d) Kentucky Educational Television.
    - (e) Kentucky Historical Society.
    - (f) Kentucky Teachers' Retirement System Board of Trustees.
3. Natural Resources and Environmental Protection Cabinet:
    - (a) Environmental Quality Commission.
    - (b) Kentucky Nature Preserves Commission.
    - (c) Department for Environmental Protection.
    - (d) Department for Natural Resources.
    - (e) Department for Surface Mining Reclamation and Enforcement.
    - (f) Department of Law.
    - (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
    - (a) Department of Highways.
    - (b) Department of Vehicle Regulation.
    - (c) Department of Administrative Services.
    - (d) Department of Fiscal Management.
    - (e) Department of Rural and Municipal Aid.
    - (f) Office of Aeronautics.
    - (g) Office of General Counsel.
    - (h) Office of Public Relations.
    - (i) Office of Personnel Management.
    - (j) Office of Minority Affairs.
5. Cabinet for Economic Development:
    - (a) Department for Existing Business and Industry.
    - (b) Tobacco Research Board.
    - (c) Kentucky Development Finance Authority.
    - (d) Office of Business and Technology.
    - (e) Office of Industrial Development.
6. Public Protection and Regulation Cabinet:
    - (a) Public Service Commission.
    - (b) Department of Insurance.
    - (c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Employment Services.
(c) Department for Social Insurance.
(d) Department for Social Services.
(e) Department for Medicaid Services.
(f) Department for Mental Health and Mental Retardation Services.
(g) Unemployment Insurance Commission.
(h) Commission for Handicapped Children.
(i) Public Assistance Appeals Board.
(j) Office of Administrative Services.
(k) Office of Communications.
(l) Office of General Counsel.
(m) Office of Inspector General.
(n) Office of Policy and Budget.
(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Fiscal Affairs.
(c) Office of Historic Properties.
(d) Office of Financial Management and Economic Analysis.
(e) Office of Risk Management.
(f) Department for Administration.
(g) Department of Facilities Management.
(h) Department of Information Systems.
(i) State Property and Buildings Commission.
(j) Kentucky Pollution Abatement Authority.
(k) Kentucky Savings Bond Authority.
(l) Deferred Compensation Systems.
(m) Office of Equal Employment Opportunity Contract Compliance.
(n) Capital Plaza Authority.
(o) County Officials Compensation Board.
(p) Financial Disclosure Review Commission.
(q) Kentucky Employees Retirement Systems.
(r) Commonwealth Credit Union.
(s) State Investment Commission.
(t) Kentucky Housing Corporation.
(u) Governmental Services Center.
(v) Kentucky Local Correctional Facilities Construction Authority.

- (w) Kentucky Turnpike Authority.
- (x) Historic Properties Advisory Commission.

9. Labor Cabinet:
   - (a) Department of Workplace Standards.
   - (b) Department of Workers' Claims.
   - (c) Kentucky Labor-Management Advisory Council.
   - (d) Occupational Safety and Health Standards Board.
   - (e) Prevailing Wage Review Board.
   - (f) Workers' Compensation Board.
   - (g) Kentucky Employees Insurance Association.
   - (h) Apprenticeship and Training Council.
   - (i) State Labor Relations Board.
   - (j) Kentucky Occupational Safety and Health Review Commission.
   - (k) Office of Administrative Services.
   - (l) Office of Labor Management Relations.
   - (m) Office of General Counsel.
   - ***(n) Workers' Compensation Funding Commission.***
   - ***(o) Employers Mutual Insurance Authority.***
10. Revenue Cabinet:
    - (a) Department of Property Taxation.
    - (b) Department of Tax Compliance.
    - (c) Department of Administrative Services.
11. Tourism Cabinet:
    - (a) Department of Travel Development.
    - (b) Department of Parks.
    - (c) Department of Fish and Wildlife Resources.
    - (d) Kentucky Horse Park Commission.
    - (e) State Fair Board.
    - (f) Office of Administrative Services.
    - (g) Office of Film Promotion.
    - (h) Office of General Counsel.
12. Cabinet for Workforce Development:
    - (a) Department for Adult and Technical Education.
    - (b) Department of Vocational Rehabilitation.
    - (c) Department for the Blind.
    - (d) State Board for Adult and Technical Education.
    - (e) Governor's Council on Vocational Education.
    - (f) Governor's Commission on Literacy.
    - (g) The State Board for Proprietary Education.
    - (h) The GED Foundation.
    - (i) The Kentucky Occupational Information Coordinating Committee.
    - (j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

PART 3

WORKERS' COMPENSATION BOARD AND ALJS

Section 9. KRS 342.213 is amended to read as follows:

(1) ~~[Except as provided in subsection (3) of this section]~~ The Governor shall make all appointments to the board***, appoint the administrative law judges, and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230*** by choosing ***from*** ~~[one (1) of three (3)]~~ names presented to him by the Workers' Compensation ~~[Board]~~ Nominating Commission.

(2) The Workers' Compensation ~~[Board]~~ Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(d) The members shall annually select a chairman of the nominating commission.

(3) The Governor shall appoint the administrative law judges in accordance with the provisions of KRS 342.230 from a list of names submitted by the Workers' Compensation Nominating Commission. The list shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.230. The administrative law judges shall be subject to Senate confirmation in accordance with KRS 11.160.

(4) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.

(5) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than ninety (90) days after a vacancy occurs.

(b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

(6)[~~(3)~~] The ***nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed by the Workers' Compensation Funding Commission for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute*** ~~[initial appointments to the board created pursuant to KRS 342.215 shall be made by the Governor from a list of nine (9) names submitted by the nominating commission on the first Monday in January, 1988]~~.

Section 10. KRS 342.215 is amended to read as follows:

(1) The Workers' Compensation Board is hereby created and established. The board~~[, through the commissioner, shall exercise complete authority over the administration of the Department of Workers' Claims and]~~ shall rule on appeals of decisions rendered by administrative law judges under this chapter. ***The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.***

(2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.

(3) ~~[Of the members first appointed under this section, one (1) shall serve a term of two (2) years; one (1) a term of three (3) years; and one (1) a term of four (4) years, as designated by the Governor at the time of the appointments. Thereafter,]~~

Each term ***of a board member*** shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. ***The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has resigned or has been removed from his position prior to the expiration of his term.*** ~~[Each member of the board shall hold office until his successor is appointed and qualifies.]~~ The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

(4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.

(5) ~~[The terms of all members of the Workers' Compensation Board who are in office prior to January 4, 1988, shall automatically expire one hundred eighty (180) days following January 4, 1988. In addition to rendering decisions, awards and orders, the members shall assist in training the newly appointed full-time members of the Workers' Compensation Board created pursuant to this chapter and the newly employed administrative law judges.~~

~~(6)]~~ Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.

Section 11. KRS 342.228 is amended to read as follows:

(1) The Department of Workers' Claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance, and rehabilitation provisions in this chapter. The department shall be ***administered*** ~~[headed]~~ by a commissioner ***appointed*** ~~[hired]~~ by the ***Governor. The Governor shall select the commissioner from a list of three (3) names submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213. The commissioner appointed by the Governor shall be subject to the consent of the Senate in accordance with KRS 11.160*** ~~[board, who shall be responsible for overseeing the administration of claims and the administration of the insurance, self-insurance and rehabilitation provisions of this chapter]~~.

(2) The commissioner shall be an attorney and shall have demonstrated knowledge and experience in the area of workers' compensation, public administration, and administrative law.

Section 12. KRS 342.230 is amended to read as follows:

(1) ~~[Upon the recommendation of]~~ The commissioner, ~~[the board,]~~ within the limits of appropriations therefor ***and except as otherwise specifically provided in this chapter***, shall establish and fill any positions, including medical services and advice, necessary to carry on the ***department's*** ~~[board's]~~ work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges, and board members, shall be members of the classified service.

(2) The ~~[board shall employ a]~~ commissioner ***of the Department of Workers' Claims***~~[. The commissioner]~~ shall have immediate supervision of the employees of the department, perform ~~[such]~~ duties ~~[as are]~~ assigned him, and have complete authority~~[, on behalf of the board,]~~ to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner ***with the assistance of the board*** shall ***train and instruct the administrative law judges on an on-going basis; assign cases; and monitor the caseloads of the administrative law judges and the Workers' Compensation Board to ensure timely disposition of cases;*** keep and be the custodian of the records of the board and the administrative law judges;~~[, shall]~~ annually report the activities of the board and administrative law judges to the Governor;~~[,]~~ and ~~[shall]~~ devote his full time to the duties of his office. ***The commissioner shall be paid a salary not less than the salary of a member of the board.*** ~~[He shall receive a salary to be fixed by the board.]~~

(3) The ***Governor*** ~~[board]~~ shall ***appoint,*** ~~[employ]~~ with the consent of the Senate ***in accordance with KRS 11.160*** for a term of four (4) years, not more than ***sixteen (16)*** ~~[fifteen (15)]~~ administrative law judges, each of whom shall ***be an attorney and shall*** have ***five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, or extensive knowledge of workers' compensation law*** ~~[the qualifications of a Circuit Judge, except residence in a district]~~, and shall be paid the same salary ***as a Circuit Judge. The Governor shall appoint the administrative law judges from a list of three (3) names for each administrative law judge position submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213 and for this purpose only, a member of the Workers' Compensation Board shall serve as an ex-officio member of the nominating commission. Each administrative law judge***~~[, shall be subject to removal during the term of employment for violation of the code of judicial ethics, and]~~ may be employed for additional terms of four (4) years with the consent of the Senate ***in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee***. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make ~~[such]~~ rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the

taking of evidence as will expedite the preparation of the case.

(4) *To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.*

(5) The *Governor* [~~board~~] may at any time remove the commissioner *or any member of the board*. The *commissioner* [~~board~~] may remove any administrative law judge*. A member of the board or an administrative law judge may be removed* for *good cause including:* violation of the code of judicial ethics *or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section*.

(6)[~~(5)~~] Any vacancy in the term of an administrative law judge*, which occurs prior to the expiration of the term,* shall be filled by appointment of the *Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs* [~~board~~], with the consent of the Senate *in accordance with KRS 11.160*, for the remainder of the term. [~~In the event the Senate is not in session at the time of the appointment to fill the vacancy, the consent of the Senate shall be obtained during the time the Senate next convenes.~~]

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill these positions.

(b) Effective at 12 midnight, December 31, 1995, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 1996, the Governor shall make four (4) year appointments to fill these positions.

(c) On January 1, 1996, and January 1, 1998, as provided in paragraphs (a) and (b) of this subsection, and every fourth year thereafter, administrative law judges shall be appointed by the Governor for four (4) year terms and confirmed by the Senate in accordance with KRS 11.160. Confirmation hearings for administrative law judges shall be completed by the end of the regular session every four (4) years thereafter beginning with the 1996 Regular Session. Vacancies shall be filled in accordance with subsection (6) of this section.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties and requirements as those set forth in this section for administrative law judges, and to be subject to removal for the same reasons. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, providing educational opportunities for the administrative law judges, and supervising the work of the employees of the Department of Workers' Claims who provide staff support for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional one thousand dollars ($1,000) per year. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

Section 13. KRS 342.231 is amended to read as follows:

[~~(1) The commissioner of the Department of Workers' Claims shall be paid a salary not to exceed the salary of an administrative law judge as provided in KRS Chapter 342.~~

~~(2)~~] The Labor Cabinet shall report monthly to the Committee on Appropriations and Revenue its monthly expenditures of restricted agency funds and the nature of such expenditures. Separate reporting shall be done by each department within the Labor Cabinet and for general administration and support.

Section 14. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the *commissioner* [~~board~~] for a hearing in regard to the matter at issue and for a ruling thereon. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after *the* [~~such~~] death, or within two (2) years after the cessation of voluntary payments, if any have been made.

(2) Except with respect to uncontested claims for retraining incentive benefits by reason of occupational pneumoconiosis related to exposure to coal dust, or for disability or death by reason of occupational diseases, within thirty (30) days after the application has been received the commissioner shall set the date for a prehearing conference, to be held *no later than sixty (60) days after the application is sent to the parties* [~~as soon as practicable in view of the matter involved~~], and shall notify the parties at issue of the time and place of the prehearing conference. *As soon as practicable, but no later than the prehearing conference, all parties shall exchange medical reports; related medical information from all medical providers who have treated, examined, or evaluated the employee; vocational records and reports; and*

payroll records necessary to establish the employee's average weekly wage under this chapter. No discovery of proof shall be taken by deposition or introduced until after the pre-hearing conference unless mutually agreed to by the parties or ordered by the administrative law judge, except that any party may take the deposition of the employee.

(3) The prehearing conference shall be held at or convenient to the place where the employee resides, provided that such prehearing conference shall be held within the boundaries of the Commonwealth. At the prehearing conference, an administrative law judge shall confer informally with the parties at issue and their counsel, if any, for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposal of the case. If agreement upon any matter is reached, the administrative law judge shall write a memorandum setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge shall file it with the ***commission*** [~~board~~]. Once filed, the memorandum shall become a part of the record.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

(5) An application for adjustment of claim shall be held in abeyance by the administrative law judge during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle him, unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 15. KRS 342.275 is amended to read as follows:

In any claim in which settlement is not reached at the prehearing conference, the administrative law judge shall hold a hearing on the matters at issue [~~within sixty (60) days from the date of the prehearing conference~~] in a location at or convenient to the place where the employee resides, ***except that the*** [~~provided that such~~] conference shall be held within the boundaries of the Commonwealth. ***No discovery or proof shall be taken by deposition or introduced until after the prehearing conference unless mutually agreed to by the parties or ordered by the administrative law judge except that any party may take the deposition of the employee.*** The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the ***commissioner*** [~~board~~]. The commissioner shall notify the parties at issue of the time and place of the hearing. The administrative law judge shall render the award, order, or decision within ***sixty (60) days following the final hearing unless mutually agreed to by all parties*** [~~thirty (30) days after the case is submitted~~]. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute.

PART 4

ALTERNATIVE DISPUTE RESOLUTION

SECTION 16. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In accordance with administrative regulations promulgated by the commissioner, a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative that contains the following provisions may be recognized as valid and binding:

(a) An alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter that relate to the resolution of disputes, and which may include but is not limited to mediation and arbitration, the results of which may be binding upon the parties;

(b) The use of an agreed list of providers of medical treatment, which may be the exclusive source of all medical and related treatment provided under this chapter;

(c) The use of a limited list of physicians to conduct independent medical examinations;

(d) A light duty, modified job, or return-to-work program;

(e) A vocational rehabilitation or retraining program; and

(f) A twenty-four (24) hour health care coverage plan for medical benefits.

(2) A system of arbitration may provide that the decision of the arbiter is subject to review by an administrative law judge.

(3) Notwithstanding the provisions in subsection (1) of this section, no agreement shall be recognized as valid and binding that diminishes the rights of any of the parties under this chapter. Also, no agreement shall be valid and binding unless it is agreed to by the employer's insurance carrier.

PART 5

MEDICAL PROVISIONS: MANAGED CARE, STATEMENT FOR SERVICES, FEE SCHEDULES, ANTI-BALANCE BILLING, SELF-REFERRAL

Section 17. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. ***The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee.*** [~~The employee may select the physician to treat his injury, and the hospital in which he shall be treated.~~] The employer, or an insurer on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of ***the*** [~~such~~] services within thirty (30) days of receipt of a statement for services. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter***,*** if appropriate***,*** as long as medical services are rendered. ***The fee, charge, or request for reimbursement shall be billed at the medical service provider's lowest rate or lowest schedule of charges except for Medicaid. However, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.***

(2) ***Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.***

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(5) All medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall [~~initially~~] pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces ***as may reasonably be required at the time of the injury and thereafter during disability***.

(7)[~~(3)~~] Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat his injury or disease, or because of the hospital selected by the employee in which he is being treated, that the employee is not receiving proper medical treatment and his recovery is being substantially affected or delayed; or that the funds for his medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for his injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(8)[~~(4)~~] An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury ***or disease*** for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 18. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than ***two (2)*** [~~three (3)~~] physicians without prior consent from the administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. ***The*** [~~Such~~] report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of ***the*** [~~such~~] report and to cross-examine the reporting physician. The ***commissioner*** [~~board~~] shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 19. KRS 342.035 is amended to read as follows:

(1) [~~Within one hundred eighty (180) days following January 4, 1988, and~~] Periodically [~~thereafter~~], the ***commissioner*** [~~board~~] shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges***,*** and reimbursements under KRS 342.020 ***and this section*** shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons of a like standard of living in the same community and where such treatment is paid for by the injured person himself. In determining what fees are reasonable, the ***commissioner*** [~~board~~] may also consider the increased security of payment afforded by this chapter. ***In addition to the limitation on fees adopted pursuant to this section, no provider of medical services as defined in this chapter shall charge or attempt to collect a fee, charge or reimbursement for medical services or supplies rendered after April 15, 1994 greater than one hundred fifteen percent (115%) of the maximum amount allowed or permitted to be charged by a provider of medical services under the federal Medicare program (Title XVIII of the Social Security Act). Unless specifically adopted by administrative regulations promulgated by the commissioner, any medical practice standards adopted by the federal Medicare program shall not be utilized in determining the reasonableness or appropriateness of medical care.***

(2) ***No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.***

(3) Where ***these*** [~~such~~] requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused***,*** or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

(4) The commissioner shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer.

(5) (a) To ensure compliance with subsections (1) and (4) of this section, the commissioner shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, group self-insurer,

and self-insured employer to certify to the commissioner the program or plan it has adopted to ensure compliance.

(b) In addition, the commissioner shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the commissioner, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the commissioner to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the commissioner, and shall use the information for no other purpose than the audit required by this paragraph.

(c) If medical utilization review activities are conducted by an insurance carrier, group self-insurer, or self-insured employer pursuant to this section, these activities shall be performed by a private review agent which is licensed or certified as a private review agent by the Cabinet for Human Resources.

(d) Periodically, or upon request, the commissioner shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.

(e) The cost of implementing and carrying out the requirements of this subsection shall be paid by the Workers' Compensation Funding Commission.

(6) The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents ($0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.

(8) (a) The commissioner shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The commissioner may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.

(b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

SECTION 20. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A:

(a) Establishing the form and content of a statement for services;

(b) Specifying the manner in which the employee may designate and change the designation of physicians;

(c) Requiring selection of gatekeeper physicians;

(d) Requiring reports from providers on the condition of the employee; and

(e) Establishing procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of medical services shall be resolved.

(2) Pending the effective date of administrative regulations promulgated by the commissioner, all administrative regulations heretofore promulgated by the Workers' Compensation Board pertaining to these matters shall remain in effect, it being determined that those administrative regulations are within the statutory grant of authority, meet legislative intent, and are not in conflict with the provisions of this chapter.

Section 21. KRS 342.735 is amended to read as follows:

The *commissioner* [~~board~~] shall *promulgate administrative* [~~establish rules and~~] regulations to expedite the payment of temporary total disability and medical expense benefits. *The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an administrative law judge on medical issues relating to the*

reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.

Section 22. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment***, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment***.

(2) The ***commissioner*** [~~board~~] shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. [~~The board shall approve as qualified such facilities, institutions, and physicians as are capable of rendering competent rehabilitation service to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.~~]

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service ***likely to return the employee to suitable, gainful employment*** [~~the administrative law judge may deem necessary~~], be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The ***commissioner*** [~~board~~] shall cooperate on a reciprocal basis with the Kentucky Office of Rehabilitation of the Department of Education and the Department of Employment Services of the Kentucky Cabinet for Human Resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. ***This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on the effective date of this section.***

(7) ***Prior to an order from an administrative law judge, the provisions of this section shall not be mandatory*** [~~The board shall, by July 1, 1988, promulgate administrative regulations to effectuate the provisions of this section. The administrative regulations shall ensure early intervention; prompt and cost efficient delivery of rehabilitation services; and vigorous monitoring of qualified rehabilitation providers, facilities, and agencies~~].

PART 6

TWENTY-FOUR HOUR COVERAGE

SECTION 23. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may establish one (1) or more pilot programs for interested employers of integrated management

of an employer's workers' compensation and group health insurance claims by an insurer authorized to do business in the Commonwealth and may promulgate any administrative regulations necessary to implement the provisions of this subsection. The integrated management of such claims shall in no event affect any benefits, rights, or coverage established pursuant to a workers' compensation insurance policy. Treatment for work-related conditions shall not be subject to either copayments or deductibles. The commissioner shall make a report comparing the results of each pilot program to the expected results under traditional workers' compensation insurance and traditional workers' compensation with a managed care program. The pilot program shall serve as a tentative model for future experiments. Unless continued or modified by law, this subsection shall expire effective September 1, 1998.

(2) No policy for twenty-four (24) hour coverage shall become effective until it is reviewed and approved by the commissioner, in consultation with the commissioner of the Department of Insurance.

(3) The purchase of a twenty-four (24) hour health policy shall not constitute an exemption from statutory provisions which require other nonmedical insurance coverage. However, an insurance carrier shall reduce its premium for insurance coverage written without the medical or health care component. Notwithstanding the provisions of Subtitle 13 of KRS Chapter 304, the premium reduction required in this subsection shall be subject to the approval of the commissioner of the Department of Insurance.

(4) If an employer obtains a twenty-four (24) hour health insurance policy, pursuant to this section, to secure payment of compensation for medical care and treatment under this chapter, the employer shall also procure an insurance policy which shall provide indemnity benefits to ensure that the total coverage afforded by both the twenty-four (24) hour insurance policy and the policy providing indemnity benefits, shall provide the total compensation required by this chapter.

(5) The participants in a pilot project for twenty-four (24) hour health coverage shall comply with periodic reporting requirements of the commission.

(6) Each agency of state government shall cooperate with the commissioner if requested to provide information for the purposes of this section.

Section 24. KRS 342.375 is amended to read as follows:

Every policy or contract of workers' compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to every one of his employees subject to this chapter, except as otherwise provided in KRS 342.345 ***or in Section 23 of this Act***. However, if specifically authorized by the commissioner, a separate insurance policy may be issued for a specified plant or work location if the liability of ***the*** [~~such~~] employer under this chapter to all his other employees subject to this chapter is otherwise secured and provided that no employee transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

PART 7

PERMANENT PARTIAL DISABILITY, RIB, TELEDYNE, AND REOPENING

Section 25. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For total disability ***due to a work-related injury or occupational disease***, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during ***that*** [~~such~~] disability. ***Nonwork-related disability shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.***

(b) For permanent, partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, or by his percentage of disability as determined under KRS 342.0011(11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks***. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph***. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on

account of the pre-existing disability.

(3) ***Subject to the limitations contained in subsection (4) of this section,*** when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after ***the*** [~~such~~] death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both [~~such~~] a widow or widower and such a child or children, to ***the*** [~~such~~] widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of ***those*** [~~such~~] benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no [~~such~~] widow or widower but such a child or children, then to ***the*** [~~such~~] child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of ***those*** [~~such~~] benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in [~~such~~] proportions ***that*** [~~as~~] the ***commissioner provides*** [~~board may provide~~] by ***administrative*** regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if ***the*** [~~such~~] proportioned benefits remain unpaid, to be paid in a lump sum.

(4) If the injury or last exposure occurs prior to the employee's sixty-fifth birthday, any income benefits awarded under KRS 342.750, 342.316, 342.730 or 342.732 shall be reduced by ten percent (10%) beginning at age sixty-five (65); ten percent (10%) at age sixty-six (66); and an additional twenty percent (20%) each year thereafter until age seventy (70). However, if the injury or last exposure occurs at or after age sixty-five (65) but before age sixty-eight (68), income benefits shall be payable to the employee as awarded for two (2) years and thereafter the employee shall receive benefits as though the award had been made prior to age sixty-five (65) with the benefits continuing until age seventy (70). Income benefits shall be paid only until the employee's seventieth birthday, unless the injury or last exposure occurs on or after the employee's sixty-eighth birthday, in which event income benefits shall be payable as awarded for two (2) years without the reduction provided for by this subsection.

Section 26. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by two (2) X-rays and reports of the X-rays which conform to the standards for X-rays contained in subsection (2) of KRS 342.316, he shall award a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. ***These benefits shall be paid directly to the employee only if the employee is not working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), in which event the one (1) time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040. While the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), and if the employee is enrolled and actively participating in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner, benefits awarded under this paragraph shall be paid directly to the institution conducting the training or education program on a semimonthly basis. The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), nor shall the employee personally receive any benefits pursuant to this award other than for traveling expenses. When the employee, through no fault of his own, is no longer working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a),***

then any remaining benefits shall be paid directly to the employee on the same monthly basis as provided in KRS 342.040 [~~The one (1) time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040, by the employee while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employee leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge. Based upon this examination, the administrative law judge may make appropriate findings and enter an award if indicated~~].

(b) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(c) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the Guides to the Evaluation of Permanent Impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during ***the*** [~~such~~] disability***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(d) If the administrative law judge finds that an employee has occupational pneumoconiosis with a radiographic classification of category 2/1, 2/2, 2/3, 3/2, 3/3, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to ***the*** [~~such~~] occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) In no event shall income benefits awarded under paragraphs (a) or (b) of subsection (1) of this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

Section 27. KRS 342.125 is amended to read as follows:

(1) Upon its own motion or upon the application of any party and a showing of change of ***medical condition*** [~~occupational disability~~], mistake or fraud***,*** or newly discovered evidence, the administrative law judge may at any time reopen and review any award or order, except as provided in subsection (2) of this section, ending, diminishing***,*** or increasing the

compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke his previous order, sending immediately to the parties a copy of his subsequent order or award. ***Any final award increasing or diminishing benefits shall require a showing of a change in occupational disability.*** Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding hereunder but shall not affect the previous order or award as to any sums already paid thereunder. The employer shall not suspend the payment of benefits during the pendency of any reopening procedures.

(2) (a) Upon the application of the affected employee, and a showing of progression of his previously diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to ***that*** {~~such~~} pneumoconiosis, the administrative law judge may review an award of a retraining incentive benefit because of ***the*** {~~such~~} diagnosis, and upon a finding of respiratory impairment due to ***that*** {~~such~~} pneumoconiosis shall make an award for benefits as provided in KRS 342.732. Such a reopening may also occur upon a showing of progression of respiratory impairment in a claim for which benefits were previously awarded under the provisions of KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits previously awarded and, if applicable, also by the amount of income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(3) Where an agreement has become an award by approval of the administrative law judge, and a reopening and review of ***that*** {~~such an~~} award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

Section 28. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

(6) If death occurs as a direct result of a work related injury, and the deceased has no statutory dependents, as determined by this section, a lump-sum payment of $10,000 shall be paid to his estate, in addition to the amount provided for in KRS 342.720; provided, however, that the lump-sum payment shall be reduced by any income benefits previously paid on account of that injury.

(7) All benefits awarded pursuant to this section shall be subject to the limitations contained in KRS 342.730(4).

Section 29. KRS 342.143 is amended to read as follows:

For the purposes of this chapter the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. ***The*** [~~Such~~] average weekly wage shall be certified to the commissioner by the Cabinet for Human Resources in a manner prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] by ***administrative*** regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. ***Notwithstanding the provisions of this section or KRS 342.740, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined to be in effect in the calendar year of 1994. If the average weekly wage is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.***

PART 8

ATTORNEY'S FEES

Section 30. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the

administrative law judge pursuant to the statutes and administrative regulations. In an original claim, no ***attorney's*** [~~attorney~~] fees shall be allowed or approved against any party not represented by ***an*** [~~said~~] attorney, nor shall any ***attorney's*** [~~attorney~~] fee be allowed or approved exceeding an amount equal to twenty percent (20%) of the first twenty-five thousand dollars ($25,000), fifteen percent (15%) of the next ten thousand dollars ($10,000)***,*** and five percent (5%) of the remainder of the amount recovered***, except where applicable in the case of death and then by the use of*** [~~as actuarially determined on past and future benefits according to the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables and~~] the Remarriage Tables of the Dutch Royal Insurance Institute. ***However, in no event shall the attorney's fee exceed fifteen thousand dollars ($15,000).*** [~~If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used. Provided, however,~~] The administrative law judge, in making an allowance of ***attorney's*** [~~attorney~~] fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The factors to be considered by the administrative law judge in making the allowance of ***an attorney's*** [~~attorney~~] fees shall include, but not necessarily be limited to: nature, scope, and quality of the attorney's services; level of skill and competence required of the attorney in rendering the services; results achieved; experience and skill level of the attorney; and contingent nature of the case. [~~In the order making the allowance of attorney fees, the administrative law judge shall set forth findings sufficient to support the amount approved.~~] The administrative law judge may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. ***Any award made to a claimant in a nonresisted claim under KRS 342.732, 342.316 or in a claim under KRS 342.732(1)(a) for an employee who continues to work in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a) shall result in an award of an attorney's fee not exceeding seven hundred fifty dollars ($750). The date of injury or last exposure shall control the applicable maximum attorney's fee, except that the date the claim is filed shall control the maximum fee as to all claims filed under KRS 342.732(1)(a) for an employee who continues to work in the mining industry engaged in the severance or processing of coal is defined in KRS 342.0011(23)(a).*** Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 shall result in an award of an ***attorney's*** [~~attorney~~] fee not exceeding seven hundred fifty dollars ($750).

(2) ***(a)*** No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an ***attorney's*** [~~attorney~~] fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The ***attorney's*** [~~attorney~~] fee shall be paid in one (1) of the following ways:

[~~(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or~~]

1.(b) The claimant may pay the attorney's fee out of his personal funds ***or from the proceeds of a lump-sum settlement***; or

2.[~~(c)~~] The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid***, commuting sufficient sums to pay the fee***.

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee[~~,~~] is to be paid. His selection and statement that he fully understands the method to be used shall be submitted ***by his attorney***, on a notarized form signed by the claimant, [~~by his attorney~~] at the time the motion for approval of the attorney's fee is submitted. The ***commissioner*** [~~board~~] shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of ***an attorney's*** [~~attorney~~] fees and an explanation in nontechnical language of each method.

(4) The General Assembly declares that by the enactment of subsection (2)(b) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of ***those*** [~~such~~] claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to ***this*** [~~such~~] legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5) The administrative law judge shall approve any contract between attorney and client if the ***fees are reviewed and approved by the administrative law judge pursuant to subsection (1) of this section and if the*** limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316, the ***attorney's*** [~~attorney~~] fee shall not exceed an amount equal to seven hundred fifty dollars ($750).

(b) In all other claims, the fee of the attorney shall not exceed the amounts provided in subsection (1) of this section.

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an ***attorney's*** [~~attorney~~] fee may be awarded by the administrative law judge. In awarding the ***attorney's*** [~~attorney~~] fee, the administrative law judge shall consider the factors set forth in subsection (1) of this section.

(b) Thereafter, the administrative law judge shall fix the ***attorney's*** [~~attorney~~] fee. No ***attorney's*** [~~attorney~~] fee shall be allowed or approved against any party not represented by ***that*** [~~said~~] attorney, nor shall any ***attorney's*** [~~attorney~~] fee be allowed or approved exceeding the amounts provided in subsection (1) of this section applicable to any additional amount recovered. If there is no additional amount recovered in a reopened claim, there shall be no ***attorney's*** [~~attorney~~] fee.

(7) The provisions of this section which provide for maximum allowable attorney's fees and the review requirements relating to those fees shall be applicable to an attorney who represents an employer or his carrier to the same extent as they are applicable to an attorney who represents a claimant.

PART 9

SPECIAL FUND - SCOPE AND COVERAGE

Section 31. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may name the special fund as a party in the original application for benefits, or either party shall ***as soon as practicable,*** by motion [~~not later than forty-five (45) days prior to the first scheduled prehearing conference~~], unless there is a showing of good cause, request the administrative law judge to and the administrative law judge shall, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employee is found to have a dormant nondisabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) All motions to join the special fund shall include proper allegations demonstrating the basis for joinder and certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant.

(4) Failure to move for joinder of the special fund within the time limit prescribed by this section, without a showing of good cause, shall bar any recovery against the special fund.

(5) When the special fund has been made a party, the administrative law judge may direct the procedures provided in KRS 342.121.

(6) If it is found that the employee is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employee is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the administrative law judge which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(7) The remaining compensation for which such resulting condition would entitle the employee, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, but excluding all compensation which the provisions of this chapter would have afforded on account of prior disabling disease or injury had it been compensated thereunder, shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employee under such regulations as the secretary of finance and administration may provide for such purpose.

(8) In making the computation for the apportionment of benefits under this section, the administrative law judge shall determine the amount of the employee's weekly income benefits and apportion the award ***commencing with*** [~~between~~] the employer and special fund as follows:

(a) For benefits awarded under ***this chapter*** [~~KRS 342.730(1)(b)~~], the portions shall be based on the number of weeks stated therein;

(b) ***In instances where the employer has settled its liability for income benefits and thereafter a determination***

has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, unless otherwise agreed by all parties [~~For all other benefits awarded under this chapter, except retraining incentive benefits awarded pursuant to KRS 342.732, the portions shall be based on the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables. If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used~~].

Section 32. KRS 342.1202 is amended to read as follows:

(1) An award for income benefits for permanent total or permanent partial disability under this chapter based, in whole or in part, on a pre-existing disease or pre-existing condition of the back, or of the heart shall be apportioned, by the administrative law judge, fifty percent (50%) to the employer and fifty percent (50%) to the special fund. Apportionment required by this section shall not be a cause of appeal.

(2) The special fund's liability for income benefits for all other injury claims shall not exceed fifty percent (50%) of the income benefits awarded for permanent disability. In those injury claims where the administrative law judge determines that the apportionment to the special fund under KRS 342.120 exceeds fifty percent (50%) of the award of permanent disability, that portion of the award exceeding fifty percent (50%) shall be paid by the employer.

PART 10

SPECIAL FUND ASSESSMENTS, KWCFC, AND DEDUCTIBLE POLICIES

Section 33. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Division of Special Fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and, financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards and Mediation and the Office of Labor-Management Relations, as reflected in the enacted budget of the Commonwealth enacted by the General Assembly, a special fund assessment at the rate of sixteen and nine-tenths percent (16.9%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1990, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after January 1, 1990, a special fund assessment at the rate of sixteen and nine-tenths percent (16.9%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty-seven percent (47%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1990, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1990, an additional assessment at the rate of forty-seven percent (47%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) [~~On November 15, 1991, and~~] Each November 15, [~~thereafter,~~] the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for ***the*** [~~such~~] past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively, during the next annual period beginning on January 1 of each year. On or before December 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on January 1, of each year, unless modified by the General Assembly.

(3) ***(a) Notwithstanding the assessment rates in subsection (1) of this section or the special fund assessment amounts specified in subsection (2) of this section, for calendar year 1995, the funding commission shall impose a special fund assessment rate necessary to produce seventy-eight million, six hundred sixty-two thousand sixty-two dollars ($78,662,062) and an additional assessment rate necessary to produce forty million dollars ($40,000,000).***

(b) For calendar year 1996 the funding commission shall impose a special fund assessment rate necessary to produce eighty-eight million, six thousand two hundred forty-one dollars ($88,006,241) and an additional assessment rate necessary to produce forty million dollars ($40,000,000).

(c) 1. The assessment rate calculated to produce seventy-eight million, six hundred sixty-two thousand sixty-two dollars ($78,662,062) under paragraph (a) of this subsection shall be imposed upon the amount of

workers' compensation premiums received on and after January 1, 1995, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

2. In addition to the assessment calculated under subparagraph 1. of this paragraph, the funding commission shall calculate an assessment rate calculated to produce forty million dollars ($40,000,000), pursuant to paragraph (a) of this subsection, which shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1995, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal, and upon the premium, as defined in KRS 342.0011 of every employer engaged in the severance or processing of coal who is carrying his own risk.

(d) 1. The assessment rate calculated to produce eighty-eight million, six thousand two hundred forty-one dollars ($88,006,241) under paragraph (b) of this subsection shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1996, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

2. In addition to the assessment calculated under subparagraph 1. of this paragraph, the funding commission shall calculate an assessment rate calculated to produce forty million dollars ($40,000,000), pursuant to paragraph (b) of this subsection which shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1996 by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal, and upon the premiums, as defined in KRS 342.0011 by every employer engaged in the severance or processing of coal who is carrying his own risk.

(e) On or before December 1 of 1994 and 1995, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the special fund assessment rates established in this subsection which shall become effective on January 1, 1995, and January 1, 1996, respectively, unless modified by the General Assembly. The payment schedules and other matters relating to the payment of the special fund assessments required pursuant to this section shall apply to the assessment rates and amounts required under this subsection.

(f) For calendar year 1997 and for each calendar year thereafter, the assessment rates and amounts contained in the provisions of subsections (1) and (2) of this section shall apply.

All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(5)[~~(4)~~] *These* [~~Such~~] assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(6)[~~(5)~~] The assessments [~~herein~~] imposed *by this section* may be collected by the insurance carrier from his insured*.*[~~, provided~~] However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, *the* [~~such~~] assessment shall be collected at the same time and in the same proportion as the premium is collected. *The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible.* Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages *imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible* [~~in effect at the time the statement of the premium is sent to the insured~~]. *The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.*

(7) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years.

(8)[~~(6)~~] The funding commission, as part of the collection and auditing of the special fund assessments required *by this section* [~~herein~~], shall annually require each insurance carrier and each group self-insurer to provide a list of employers

which it has insured or which are members and the amount collected from each [~~such~~] employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees*.*[~~, provided~~] However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Division of Unemployment Insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(9)[~~(7)~~] Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(10)[~~(8)~~] The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. *The* [~~Such~~] registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(11)[~~(9)~~] The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as [~~herein~~] set out *by this section* and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(12)[~~(10)~~] Notwithstanding any other provision of this section or this chapter, or the Kentucky Revised Statutes, generally, the assessment rates for the special fund, as determined *by this section* [~~herein~~], which were in force and effect on January 1, 1990, shall continue in force and effect until December 1, 1991, and the total amount of funds collected pursuant to *the* [~~such~~] assessment rates shall not be limited to the provisions of this section.

Section 34. KRS 342.1221 is amended to read as follows:

Assessments levied pursuant to KRS 342.122 and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1.5%) per month *or portion thereof without proration* from the date *on which the* [~~such~~] assessment was due and payable.

Section 35. KRS 342.1222 is amended to read as follows:

(1) Every insurance carrier shall be entitled to a refund or credited with assessments paid on all canceled or returned premiums, including dividends paid or credited to policyholders*, if the assessments are returned by the insurance carrier to the policyholder in addition to the canceled or returned premium*.

(2) The assessments paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580 *if, effective January 1, 1994,* [~~provided that~~] the claim for refund or credit is made by the insurance carrier within one (1) year *from the transaction date of the activity that generated the refund* [~~of the end of the policy year~~].

(3) A claim for refund or credit shall be made on a form prescribed by the funding commission and shall contain *any* [~~such~~] information *that* [~~as~~] the funding commission may require.

(4) No insurance carrier shall be entitled to a refund or credit of the assessments paid pursuant to the provisions of this chapter where the assessments have been collected from an employer as provided by KRS 342.122, unless the amount of assessments collected from the employer are refunded to him by the insurance carrier who paid the assessments to the funding commission.

PART 11

SELF-INSURANCE

Section 36. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state or shall furnish to the *commissioner* [~~board~~] satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case*,* the *commissioner* [~~board~~] shall require the deposit of an acceptable security, indemnity, or bond to secure, to *the* [~~such an~~] extent [~~as~~] the *commissioner* [~~board~~] directs, the payment of compensation liabilities as they are incurred.

(2) Every employer subject to this chapter shall file, or have filed on its behalf, with the *department* [~~Workers' Compensation Board~~], as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. *Any insurance carrier or group self-insurance association providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the commissioner, evidence of the employer's compliance with this chapter. The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage.* Every employer who has complied with the

foregoing provision and has subsequently canceled its insurance or its membership in an approved group self-insurance association, as the case may be, shall immediately notify, or have notice given on its behalf to the *department* [~~Workers' Compensation Board~~] of *the* [~~such~~] cancellation, the date thereof, and the reasons therefor; and every insurance carrier or group self-insurance association shall in like manner notify the *commissioner* [~~Workers' Compensation Board~~] upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or group self-insurance association need not set forth its reasons therefor unless requested by the *commissioner* [~~Workers' Compensation Board~~]. The above filings are to be made on the forms prescribed by the *commissioner* [~~board~~]. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of *the* [~~such~~] notification by the *commissioner* [~~Workers' Compensation Board~~] unless the employer has obtained other insurance and the *commissioner* [~~Workers' Compensation Board~~] is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the *commissioner* [~~board~~] shall promptly notify interested government agencies of *this* [~~said~~] failure and, with particular reference to employers engaged in coal mining, the *commissioner* [~~board~~] shall promptly report any [~~such~~] failures to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 37. KRS 342.345 is amended to read as follows:

(1) Whenever an employer has complied with the provisions of KRS 342.340 relating to self-insurance, the *commissioner* [~~board~~] shall issue to *the* [~~such~~] employer a certificate which shall remain in force for a period fixed by the *commissioner* [~~board~~]. But the *commissioner* [~~board~~] may, upon at least *ten (10)* [~~sixty (60)~~] days' notice and a hearing to the employer, revoke *or suspend* the certificate upon satisfactory evidence *that* [~~for such~~] revocation *or suspension is appropriate* [~~having been presented~~]. *If the commissioner revokes a certificate,* the *commissioner* [~~board~~] may thereafter, upon petition of the employer and a hearing, grant a new certificate, but the employer shall not, as a matter of right, be entitled to a hearing for this purpose sooner than six (6) months *following an order of the commissioner revoking the employer's certificate* [~~after a previous revocation of his certificate~~].

(2) A self-insurer whose certificate to self-insure has been revoked is not relieved of its obligations for compensation to its employees for work-related injuries or occupational diseases that occur during the period of self-insurance. The required security shall be maintained with the commissioner or under the commissioner's control until each claim for workers' compensation benefits has been paid, been settled, or lapsed under this chapter.

SECTION 38. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 342.340, 342.350, or any administrative regulations promulgated pursuant to those provisions, the commissioner shall annually review the adequacy of the financial or other security requirements contained in administrative regulations, promulgated pursuant to the self-insurance provisions in this chapter. The commissioner shall report the results of the review to the Labor and Industry Committee and any recommendations for proposed changes to insure the financial soundness of the individual self-insurers and the self-insurance groups authorized pursuant to this chapter. In addition, the commissioner shall report not less often than annually a summary report on the financial soundness of the individual self-insurers and self-insurance groups.

(2) The Labor and Industry Committee shall annually review the administrative regulations promulgated pursuant to the self-insurance provisions under this chapter.

PART 12

COMPETITIVE STATE FUND AND
RESIDUAL MARKET MECHANISM

SECTION 39. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that:

- *(a) An adequate and available workers' compensation insurance market does not exist for employers in the Commonwealth;*
- *(b) Approximately fifty percent (50%) of the private workers' compensation insurance market resides in the residual market mechanism for workers' compensation;*
- *(c) The voluntary insurance market has declined to the point that employers in the Commonwealth, who lack the financial capability to cover their own risk, have few insurance options except the residual market mechanism through which to maintain their statutorily required workers' compensation coverage;*
- *(d) A lack of an adequate market for workers' compensation insurance threatens the economic welfare of the Commonwealth and its ability to create and maintain jobs for the citizens of Kentucky;*
- *(e) Employers in the Commonwealth and other states are required by law to provide workers' compensation coverage to their employees and, therefore, the General Assembly has a responsibility to ensure employers an available and adequate insurance mechanism through which employers may discharge their statutory duty*

regarding workers' compensation; and

(f) State funds have historically and traditionally been a viable participant in the workers' compensation insurance market, that workers' compensation state funds exist in twenty-five (25) states, and that at least seven (7) states have created competitive state funds since 1983.

(2) Therefore, it is the intent of the General Assembly in creating the Employers' Mutual Insurance Authority to establish a self-supporting competitive state fund for the purpose of providing both a market of last resort for employers in the Commonwealth and another competitive source of insurance in the voluntary market through which employers may secure and maintain their workers' compensation coverage required under this chapter.

SECTION 40. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The Employers' Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure employers in the Commonwealth for workers' compensation, employers' liability insurance and coverage required by the Jones Act and the Longshore and Harbor Workers Act incidental to and written in conjunction with workers' compensation. The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of Subtitle 24 and other provisions of KRS Chapter 304 applicable to domestic mutual insurance companies unless otherwise provided or exempted in Sections 39 to 61 of this Act.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) On or before September 1, 1995, the authority shall begin to provide coverage and issue policies, as provided in subsection (1) of this section, as an insurer in the voluntary market and as a residual market mechanism.

SECTION 41. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

As used in Sections 39 to 61 of this Act, unless the context otherwise requires:

(1) "Authority" means the Employers' Mutual Insurance authority.

(2) "Board" means the board of directors of the authority.

(3) "Manager" means the manager of the authority.

(4) "Policyholder" means an employer in the Commonwealth or an employer with an employee or employees in the Commonwealth who has secured and maintains workers' compensation coverage under this Authority.

SECTION 42. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of seven (7) voting members and four (4) ex-officio nonvoting members who shall serve in an advisory capacity.

(3) On or before sixty (60) days after the effective date of Sections 39 to 61 of this Act, the board shall be appointed by the Governor, subject to confirmation by the Senate as provided in Section 43 of this Act. The members of the board shall have the following qualifications:

(a) One (1) member shall have proven or demonstrated knowledge and experience in insurance underwriting principles, preferably in the area of workers' compensation;

(b) One (1) member shall have proven or demonstrated knowledge and experience in workplace safety in the majority of all categories or classifications of employment and industry in the Commonwealth;

(c) One (1) member shall be a nonmanagement employee of a prospective employer policyholder;

(d) Two (2) members shall represent employers with fewer than fifty (50) employees; and

(e) Two (2) members shall represent employers with more than fifty (50) employees.

(4) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(5) No person shall serve on the board who:

(a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;

(b) Is not bondable;

(c) Is an employee, attorney, or contractor of a competing insurer providing workers' compensation insurance in the Commonwealth; or

(d) Is not a resident of this Commonwealth.

(6) In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from the major sectors of the economy and workforce in the Commonwealth.

SECTION 43. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board as follows: three (3) members shall be appointed to terms that expire December 31, 1995, and four (4) members shall be appointed to terms that expire December 31, 1997. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Four (4) voting members shall constitute a quorum. The board shall meet at least quarterly.

(4) Each voting member shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500). In addition, the voting members of the board shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5) The ex-officio nonvoting members of the board shall be: the secretary of the Finance and Administration Cabinet, the secretary of the Economic Development Cabinet, the commissioner of the Department of Personnel, and the commissioner of the Department of Insurance.

(6) A voting board member may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws formulated by the board and adopted by the policyholders.

SECTION 44. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to Subtitle 24 of KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue or be sued;

(2) Hire a manager to administer the authority;

(3) Adopt a corporate seal;

(4) Develop bylaws for the operation of the authority;

(5) Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in Section 50 of this Act;

(6) Examine and adopt an annual operating budget for the authority;

(7) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(8) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(9) Develop broad policy for the long-term operation of the authority consistent with its mission and fiduciary responsibility;

(10) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A;

(11) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness.

(12) Subject to Subtitle 13 of KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(13) Pursuant to Section 50 of this Act, assess policyholders to cover its liabilities as provided in KRS 304.24-230; and

(14) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of Sections 39 to 61 of this Act.

SECTION 45. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Following a nationwide search, the board shall hire a manager who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board, and may be removed by the board in the same manner prescribed in Section 43 of this Act for the removal of a member of the board.

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the

general management level in insurance operations or in the management of a state fund for workers' compensation.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The specific duties of the manager shall include, but not be limited to:

(a) Administering all operations of the authority in accordance with the direction of the board;

(b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

(c) Directing and controlling all expenditures of the approved budget;

(d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially-sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

(e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of Subtitle 7 of KRS Chapter 304;

(f) Formulating and administering a system of personnel administration and employee compensation that uses merit principles of personnel management, includes employee benefits and grievance procedures, and includes in-service training programs;

(g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

(h) Recommending to the board bylaws and uniform procedures for the management of the authority;

(i) Within the limitations of the budget, employing necessary staff personnel and consultants, including actuaries, attorneys, medical examiners, adjusters, investment counselors, accountants, and clerical and other assistants to accomplish the purpose of the authority; and

(j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to protect directors, officers, employees, and assets of the authority;

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Cause to be inspected and audited the payrolls of policyholders or employers applying to the authority for insurance;

(c) Establish procedures for adjusting claims in accordance with this chapter;

(d) Contract with physicians, surgeons, hospitals, and other health care providers for medical and surgical treatment provided by this chapter;

(e) Contract with qualified third-party entities to assist in the development and formulation of rates and rating plans; and

(f) Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64 relating to salaries, salary limits, or benefits shall not apply to the board, the manager, or the staff of the authority.

SECTION 46. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall provide coverage for insurance, authorized in Section 40 of this Act, to any employer in the Commonwealth, including any who have not been able to secure coverage in the voluntary market, and who tender the required premium for coverage and comply with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(2) The authority shall deny coverage to any employer who owes undisputed premiums to a previous workers' compensation carrier or to a workers' compensation residual market mechanism or who fails to comply with other conditions and qualifications for obtaining coverage.

SECTION 47. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority, through its board and manager, shall establish separate rating plans, rates, and underwriting standards for different classes of risks.

(2) The rating plans, rates, and underwriting standards developed for the categories of risk shall be based on generally accepted actuarial practices and procedures as set forth in the Statement of Principles Regarding Property and Casualty Ratemaking of the Casualty Actuarial Society, in accordance with the actuarial standards of practice and compliance guidelines of the Actuarial Standards Board. The rates shall be set at levels which are expected, in the

aggregate, to be sufficient to pay all workers' compensation claims incurred by the participating employer risks and other permitted expenses of the authority.

(3) Multitiered premium or rating plans may be developed to provide coverage to insureds in the residual market mechanism established by the authority, and who would not otherwise meet the underwriting standards required by the authority.

(4) The manager shall develop statistical and other information as necessary to distinguish its writings in the voluntary market, and its writings as a residual market mechanism.

(5) The rates developed by the authority for its policyholders shall be based only on Kentucky loss experience data, except that other loss experience data may be utilized as a supplement to Kentucky data if supplemental or additional data are necessary to establish statistical credibility of an employment classification.

(6) Notwithstanding any provision of KRS Chapter 304 to the contrary, the surplus requirements for mutual insurance companies in the Commonwealth shall not apply to the authority until the authority has been in operation for thirty-six (36) months.

SECTION 48. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

On an annual basis, the board may declare a dividend in accordance with Subtitle 24 of KRS Chapter 304, and distribute the same in the form of premium discounts, dividends, or a combination of dividends and discounts, at its discretion, if:

(1) The funding obtained pursuant to Section 53 of this Act has been repaid in full;

(2) An independent actuarial report of the prior year's operations has been completed and reviewed by the board; and

(3) The authority has met all expenses for administration and claims for the prior year.

SECTION 49. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

On a quarterly basis, the manager shall prepare a report of assets and liabilities, which shall also include a statement of condition regarding the solvency of the authority when awarded claims to date, and estimated initial claims not reported, are taken into account. This report shall be a public record and shall be provided to the board, the Governor, and the Legislative Research Commission.

SECTION 50. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In determining the solvency of the authority in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities by the amount of future anticipated investment income.

(2) The board shall submit an annual independently audited report in accordance with procedures governing annual reports adopted by the National Association of Insurance Commissioners within ninety (90) days of the close of the business year. The report shall be a public record and shall be delivered to the Governor, commissioner of insurance, and the co-chairs of the Legislative Research Commission. It shall indicate the business done by the authority during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of that year. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

  (a) A summary of the prior quarterly reports required in Section 49 of this Act;

  (b) An actuarial projection of solvency status for at least ten (10) years in the future; and

  (c) Any recommendations pertaining to the same.

(3) If the assets of the authority at any time are less than its liabilities, the board may, subject to the approval of the commissioner of insurance, levy an assessment on its policyholders and enforce payment of the assessment in the manner provided in Subtitle 24 of KRS Chapter 304.

SECTION 51. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The board shall formulate and adopt an investment policy that safeguards the value of all assets and maximizes investment potential commensurate with risk and liquidity restrictions, and supervise the investment activities of the authority subject to the limitations on domestic insurance companies under KRS Chapter 304. Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the authority may utilize the investment expertise and advice of the Office of Financial Management and Economic Analysis in the Cabinet for Finance and Administration. The authority shall also retain an independent investment counsel or managers whose selection shall be by a competitive bidding process as required under the procurement policy adopted by the board. The investment counsel or managers retained shall be subject to standards applicable to fiduciaries responsible for safeguarding assets of a corporation.

SECTION 52. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The manager shall compile and maintain statistical and actuarial data related to the determination of proper premium rate levels, the incidence of work-related injuries, costs related to those injuries, including medical and indemnity, and other data necessary for the development of fair and equitable rates and rating plans.

SECTION 53. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Initial funding for the authority shall be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from an existing state agency or agencies to the authority. The maximum amount borrowed from all state agencies shall not exceed seven million dollars ($7,000,000), to be repaid over a period not to exceed ten (10) years from the original loan date. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average for the long-term investment folder of the lending agency on the anniversary date of the original loan. The interest rate shall be adjusted annually on the anniversary date of the original loan. To minimize cash requirements and interest obligations, the loan shall be executed as a line of credit against the lending agency, so that only those funds actually required for initial start-up operations, including the establishment of a surplus and reinsurance expenses, are drawn down on an "as needed" basis.

(3) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(4) Funds collected by the authority shall not:

- *(a) Be loaned to the Commonwealth or any instrumentality or agency thereof;*
- *(b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2) and (3) of this section;*
- *(c) Be expended for any other purposes than as authorized by Sections 39 to 61 of this Act.*

SECTION 54. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) For marketing and sales purposes, the authority shall utilize only agents duly and legally licensed and in good standing in accordance with the provisions of KRS Chapter 304 to sell coverage provided by the authority.

(3) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

SECTION 55. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The manager shall formulate, implement, and monitor a workplace safety program for all policyholders.

(2) The manager shall develop a written workplace accident and injury reduction plan that promotes safe working conditions and which is based upon clearly stated goals and objectives. The manager or employees of the authority shall have reasonable access to the premises of any policyholder or applicant during regular working hours.

(3) The manager or board shall refuse to insure, or shall terminate the insurance of any policyholder who refuses to permit on-site examinations or who disregards or fails to comply with workplace safety goals and objectives required by the authority as conditions for obtaining and maintaining coverage.

SECTION 56. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

No member of the board, the manager, or any employee of the authority shall be held personally liable for any act performed or for any contract or other obligation entered into or undertaken in an official capacity, in connection with the administration, management, or conduct of the authority, its funds and other assets, its business, or other related affairs.

SECTION 57. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The board, manager and employees shall comply with the code of ethics applicable to the Executive Branch pursuant to KRS Chapter 11A.

(2) In addition to compliance with the code of ethics required in subsection (1) of this section, no member of the board shall have any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the authority. A personal interest shall include, but not be limited to, an interest in a major procurement.

SECTION 58. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of KRS Chapter 304 to the contrary, the authority shall be exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, pool, association, guarantee or insolvency fund authorized or required by KRS Chapter 304.

(2) Except as provided in subsection (1) of this section, the authority shall be subject to the same assessments applicable to workers' compensation premiums as domestic mutual insurance companies licensed to do business in the Commonwealth and governed by the provisions of Subtitle 24 of KRS Chapter 304.

(3) Notwithstanding the provisions of Subtitle 24 of KRS Chapter 304 or any other provisions of the Kentucky Revised Statutes to the contrary, the minimum number of directors and procedures required for incorporating a mutual insurance company, requirements relating to the name of a mutual insurance company, and any licensing requirements applicable to mutual insurance companies shall not apply to the authority.

(4) The authority shall be considered an insurer for purposes of KRS 342.122 and other provisions of this chapter.

(5) Notwithstanding any provision of KRS Chapter 304 to the contrary the authority shall not be subject to the provisions of Subtitle 33 or other provisions of KRS Chapter 304 that relate to the liquidation, rehabilitation, dissolution, or sale of any insurance company.

SECTION 59. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The authority shall comply with KRS Chapter 61 in regard to open meetings and the conduct of ordinary business, except that proceedings which would provide an unfair competitive advantage to private sector competitors providing workers' compensation coverage in the Commonwealth may be closed to the public.

SECTION 60. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The Workers' Compensation Insurance Plan (KWCIP), a workers' compensation residual market mechanism, in existence by virtue of this subtitle, shall not write new policies or renew policies after September 1, 1995. The board of directors of the Employers' Mutual Insurance Authority, the commissioner of the Department of Workers' Claims, and the commissioner of the Department of Insurance shall develop a plan, which shall be reviewed by the Labor and Industry Committee and the Banking and Insurance Committee of the General Assembly, for the orderly and equitable phase-out of the KWCIP in effect on the effective date of this section. All claims on workers' compensation assigned risk policies in effect or issued prior to September 1, 1995, shall be paid by the KWCIP. The plan developed shall include procedures for application and transfer of the insureds in the KWCIP to the Authority, who shall be subject to the qualifications and conditions of coverage required in Sections 39 to 61 of this Act. The Authority shall not be liable for any liabilities or deficits incurred on assigned risk polices in effect or issued prior to September 1, 1995.

SECTION 61. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General and the Auditor of Public Accounts shall continuously monitor the operations of the authority.

(2) Either the Attorney General or the Auditor of Public Accounts, or both, may make any investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary.

(3) The Attorney General and the Auditor of Public Accounts shall have:

- *(a) Full access to all records of the authority;*
- *(b) Full access to all financial transactions and investigations of the authority;*
- *(c) The right of subpoena; and*
- *(d) Full access to claims, records, and supporting data.*

(4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both shall:

- *(a) Recommend internal corrective action;*
- *(b) Institute a civil action or action for injunctive relief to compel corrective action;*
- *(c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or*
- *(d) Any combination of the above listed actions or any other form of action reasonably calculated to assure efficient and honest operations of the authority and those involved with it.*

PART 13

FRAUD, MISREPRESENTATION, AND PENALTIES

Section 62. KRS 342.165 is amended to read as follows:

(1) If an accident is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful *administrative* regulation made thereunder, communicated to *the* [~~such~~] employer and relative to installation or maintenance of safety appliances or methods, the compensation for which the employer would otherwise have been liable under this chapter shall be increased fifteen percent (15%) in the amount of each payment. If an accident is caused in any degree by the intentional failure of the employee to use any safety appliance furnished by the employer or to obey any lawful and reasonable [~~rule,~~] order or *administrative* regulation of the *commissioner* [~~board~~] or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this chapter, shall be decreased fifteen percent (15%) in the amount of each payment.

(2) No compensation shall be payable for work-related injuries if the employee at the time of entering the employment

of the employer by whom compensation would otherwise be payable falsely represents, in writing, his physical condition or medical history, if all of the following factors are present:

(a) ***The employee has knowingly and willfully made a false representation as to his physical condition or medical history;***

(b) ***The employer has relied upon the false representation, and this reliance was a substantial factor in the hiring; and***

(c) ***There is a causal connection between the false representation and the injury for which compensation has been claimed.***

Section 63. KRS 342.335 is amended to read as follows:

(1) No person shall knowingly file, or permit to be filed any false or fraudulent claim on his behalf to compensation or other benefits under this chapter, or by fraud, deceit***,*** or misrepresentation procure or cause to be made or receive any payments of compensation or other benefits under this chapter to which the recipient is not lawfully entitled, or conspire with, aid or abet another so to do. No person shall by deceit or misrepresentation or with intent to defraud cause or procure or conspire with, aid or abet another in so causing or procuring any person entitled to compensation or other benefits under this chapter to omit to claim title thereto or to accept the payment of a less sum than that to which he may be lawfully entitled to thereunder.

(2) ***Any person, as that term is defined in KRS 342.0011, who knowingly, as defined in KRS 501.020, makes any false representation, including misrepresentations of hazards, classifications, payrolls, or other facts by an employer or its agent that are designed to cause a reduction in the employer's premium, for the purpose of or in the course of receiving or providing any service or benefit available under this chapter, shall be subject to the civil or criminal penalties, or both, imposed pursuant to KRS 342.990 for a violation of this subsection. In addition, if a person who violates the provisions of this subsection is also dependent upon a professional license to provide any service or benefit under this chapter, the commissioner shall refer the matter to the appropriate licensing body and recommend revocation of that person's license to work at his profession in the Commonwealth of Kentucky.***

Section 64. KRS 342.990 is amended to read as follows:

(1) The commissioner~~[, on behalf of the Workers' Compensation Board,]~~ shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) through (8) of this section, or criminal penalties pursuant to subsections (9) and (10) of this section, or both.

(3) The commissioner~~[, on behalf of the board,]~~ shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge. The administrative law judge shall issue a ruling thereon within fifteen (15) days of the hearing.

(6) A cited party may appeal the ruling of the administrative law judge within fifteen (15) days following the issuance of the ruling. The appeal shall be made in writing to the ~~[Workers' Compensation Board, and the board, through the]~~ commissioner ***who***~~[,]~~ shall***,*** as soon as practicable, schedule the matter for hearing. The ***commissioner*** ~~[board]~~ shall issue a ruling on the matter within thirty (30) days of the hearing.

(7) An appeal of the ruling of the ***commissioner*** ~~[board]~~ on civil penalties imposed in this chapter shall be to the Court of Appeals.

(8) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any employer subject to this chapter~~[,]~~ who fails to make the report required by KRS 342.038~~[,]~~ within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(b) ***Any employer, insurer on behalf of an employer, or claims administrator acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.***

(c) Any person who violates ***subsection (9) of Section 17 of this Act, subsection (2) of Section 19 of this Act,*** KRS 342.040, ~~[342.335,]~~ 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(d)~~[(c)]~~Any person who violates any of the provisions of KRS ***342.165(2), 342.335,*** 342.460, 342.465***,*** or 342.470 shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense.

(9) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner[~~, on behalf of the board,~~] shall certify ***the*** [~~such~~] inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(10) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates ***subsection (9) of Section 17 of this Act,*** KRS 342.040, ***subsection (2) of Section 19 of this Act*** [~~342.335~~], 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS ***342.165(2), 342.335,*** 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(11) Fines paid pursuant to subsections (8) and (10) of this section shall be paid into the special fund.

PART 14

MISCELLANEOUS PROVISIONS

Section 65. KRS 304.14-110 is amended to read as follows:

All statements and descriptions in any application for an insurance policy or annuity contract, by or on behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions and incorrect statements shall not prevent a recovery under the policy or contract unless either:

(1) Fraudulent; or

(2) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

(3) The insurer in good faith would either not have issued the policy or contract, or would not have issued it at the same premium rate, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise. ***This subsection shall not apply to applications taken for workers' compensation insurance coverage.***

SECTION 66. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every employer, or its designated agent, which is assigned an experience modification factor for workers' compensation in order to determine its workers compensation premium shall be furnished upon request without charge a complete copy of the data and calculations of the experience modification by the insurance company or any entity to which the insurance company may delegate the duty of calculating and promulgating the experience modification or, if applicable, by any self-insurance group of which the employer is a member.

(2) Experience modification shall be based upon all payrolls and claims experience for the applicable period regardless of whether the employer was insured by an insurance company, was a member of a self-insurance group, or was a member of the Kentucky Workers' Compensation Assigned Risk Plan for part or all of the period.

Section 67. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if ***the*** [~~such~~] owner, owners, or qualified partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of ***the*** [~~such~~] owners or partners to provide coverage for their employees and nonqualified partners, if any, required under this chapter.

(2) When an owner, owners, or qualified partners have elected to be included as employees, ***this inclusion*** [~~such~~] shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" means a partner who has entered into a meaningful partnership agreement which shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership and that the partner has made some contribution to the partnership which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership.

(4) For the purposes of this section, "nonqualified partner" means a person who has entered into a partnership agreement which shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership; that the person will not participate in the decision-making of the partnership and will not participate in the profits and losses of the business engaged in by the partnership.

(5) Every partnership filing a partnership agreement for the purpose of exemption pursuant to the provisions of KRS 342.340[~~,~~] shall, on or before April 15 of each year, file with the ***commissioner*** [~~board~~] the partnership identification number assigned to the partnership by the Internal Revenue Service[~~, and shall also file a copy of the tax return of the partnership~~]. ***On or before April 15 of each year, each partnership having an agreement on file with the commissioner shall file a copy of the tax return of the partnership with the commissioner.*** Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement filed with the ***commissioner*** [~~board~~] is composed of "nonqualified partners" as defined in this section, and the ***commissioner*** [~~board~~] shall promptly notify interested government agencies of the failure of the filed partnership agreement to ***indicate compliance with*** [~~provide exemption of the partnership from the provisions of~~] KRS 342.340. With particular reference to employers engaged in coal mining, the ***commissioner*** [~~board~~] shall promptly report the failure to comply with the provisions of this subsection to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 68. KRS 342.038 is amended to read as follows:

(1) Every employer subject to this chapter shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within one (1) week after the occurrence and knowledge, as provided in KRS 342.185 to 342.200, of an injury to an employee causing his absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the ***department*** [~~board~~] on blanks procured from the ***department*** [~~board~~] for the purpose.

(2) The report shall contain the name, nature, and location of the business of the employer and name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, the nature and cause of the injury, and any other information required by the ***commissioner*** [~~board~~].

(3) ***Every employer subject to this chapter shall report to his workers' compensation insurance carrier or the party responsible for the payment of workers' compensation benefits any work-related injury or disease or alleged work-related injury or disease within three (3) working days of receiving notification of the incident or alleged incident.***

(4) Every employer or insurer subject to this chapter shall file additional reports covering specifically voluntary payments and settlements, and ***any*** [~~such~~] other reports [~~as~~] are required by the ***commissioner*** [~~Workers' Compensation Board~~] by ***administrative*** regulation for the determination of the promptness of voluntary payment and validity and fairness of agreements. In addition, the ***commissioner*** [~~board~~] may require additional information as may be necessary to comply with a federal statute or regulation or any state statute.

(5)[~~(4)~~] Upon the termination of the disability of the injured employee, or if the disability extends beyond a period of sixty (60) days, then also at the expiration of ***that*** [~~such~~] period***,*** the employer shall make a supplementary report to the ***commissioner*** [~~board~~] on blanks procured from the ***department*** [~~board~~] for the purpose.

Section 69. KRS 342.185 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless an application for adjustment of claim for compensation with respect to ***the*** [~~such~~] injury shall have been made with the ***department*** [~~board~~] within two (2) years after the date of the accident, or in case of death, within two (2) years after ***the*** [~~such~~] death, whether or not a claim has been made by the employee himself for compensation. ***The*** [~~Such~~] notice and ***the*** [~~such~~] claim may be given or made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of income benefits [~~as such~~] have been made***,*** [~~voluntarily~~] the filing of an application for adjustment of claim with the ***department*** [~~board~~] within ***the*** [~~such~~] period shall not be required, but shall become requisite within two (2) years following the suspension of [~~such voluntary~~] payments or within two (2) years of the date of the accident, whichever is later.

(2) The right to compensation under this chapter resulting from work-related exposure to the human immunodeficiency virus shall be barred unless notice of the injurious exposure is given in accordance with subsection (1) of this section and unless an application for adjustment of claim for compensation shall have been made with the commissioner within five (5) years after the injurious exposure to the virus.

SECTION 70. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any insurer providing workers' compensation insurance coverage for a Kentucky location shall provide proof of coverage to the commissioner of the Department of Workers' Claims in the Labor Cabinet in accordance with Section 36 of this Act.

Section 71. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against ***the*** [~~such~~] other person to recover damages, or proceed both against the employer for compensation and ***the*** [~~such~~] other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against ***the*** [~~such~~] other person to recover damages, he shall give due and timely notice to the employer ***and the special fund*** of the filing of ***the*** [~~such~~] action. If compensation

is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. ***The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).***

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays ***the*** [~~such~~] compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but ***the*** [~~such~~] proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall ***the*** [~~such~~] claim be barred by limitations, ***if the*** [~~provided such~~] claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for such waiver of remedies.

SECTION 72. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Pursuant to administrative regulations promulgated under KRS Chapter 13A by the commissioner, each insurance company writing workers' compensation insurance policies in the Commonwealth, every group of self-insurers, and each employer carrying its own risk shall file in the manner directed by the commissioner, on a quarterly basis, a report for the preceding quarter setting forth the amount of workers' compensation premium collected by classification and the amounts expended in terms of dollars and percentage of payout in the following areas:

(1) Administrative expenses.

(2) Legal defense by case:

(a) Attorneys;

(b) Medical witnesses;

(c) Vocational witnesses; and

(d) Other legal defense expenses.

(3) Income benefits:

(a) Temporary total;

(b) Permanent partial; and

(c) Permanent total.

(4) Medical benefits:

(a) Physicians, including medical doctors and osteopathic physicians;

(b) Chiropractors;

(c) Hospitals;

(5) Vocational rehabilitation: In-house or associated consultants.

SECTION 73. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 1994, the Kentucky Occupational Safety and Health Program shall be expanded by twenty-one (21) employees. These additional staff shall assist employers in their efforts to improve safety and health practices in their workplaces; to assure compliance with industrial health and safety regulations; and to expedite the processing of contested citations and appeals. These additional expenditures shall be financed by the Kentucky Workers' Compensation Funding Commission from funds collected for the special fund pursuant to KRS 342.122.

Section 74. KRS 342.765 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the office of the Attorney General shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the

assets of the fund. Funds to reimburse the Attorney General's office for expenses incurred in litigation and administration in defense of the uninsured employers' fund shall be transferred upon request of the Attorney General's office and approval by the secretary of the Labor Cabinet.

(2) The office of the Attorney General shall report monthly to the Interim Joint Committee on Appropriations and Revenue***, the Interim Joint Committee on Labor and Industry, and the commissioner*** the amount of the agency fund expenditures in each month for the uninsured employers' fund and the nature of ***these*** [~~such~~] expenditures. ***In addition, the Office of the Attorney General shall report quarterly to the commissioner on the amount of funds recouped from uninsured employers.***

PART 15

GENERAL CONFORMING AMENDMENTS

Section 75. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid except that if the administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the ***fifteenth*** [~~15th~~] day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the ***commissioner*** [~~board~~] of ***the*** [~~such~~] termination or failure to make payments and the ***commissioner*** [~~board~~] shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.

(3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 76. KRS 342.140 is amended to read as follows:

The average weekly wage of the injured employee at the time of the injury or last injurious exposure shall be determined as follows:

(1) If at the time of the injury which resulted in death or disability or the last date of injurious exposure preceding death or disability from an occupational disease:

(a) The wages were fixed by the week, the amount so fixed shall be the average weekly wage;

(b) The wages were fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52);

(c) The wages were fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52);

(d) The wages were fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) the wages (not including overtime or premium pay) of said employee earned in the employ of the employer in the first, second, third, or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the injury.

(e) The employee had been in the employ of the employer less than thirteen (13) calendar weeks immediately preceding the injury, his average weekly wage shall be computed under paragraph (d), taking the wages (not including overtime or premium pay) for ***that*** [~~such~~] purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

(f) The hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where ***the*** [~~such~~] services are rendered by paid employees.

(2) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the injury.

(3) In the case of volunteer firemen, police, and civil defense members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(4) If the employee was a minor, apprentice, or trainee when injured, and it is established that under normal conditions his wages should be expected to increase during the period of disability, that fact may be considered in computing his average weekly wage.

(5) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of ***the*** [~~such~~] employment prior to the injury, his wages from all ***the*** [~~such~~] employers shall be considered as if earned from the employer liable for compensation.

(6) The term "wages" as used in this section and KRS 342.143 means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, and fuel or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer to the extent ***the*** [~~such~~] gratuities are reported for income tax purposes.

(7) The ***commissioner*** [~~board~~] shall, from time to time, based upon the best available information, determine by ***administrative*** regulation industries which ordinarily do not have a full working day for five (5) days in every week. In ***those*** [~~such~~] industries, compensation shall be computed at the average weekly wage earned by the employee at the time of injury reckoning wages as earned while working full time. "At full time" as used ***in this subsection*** [~~herein~~] means a full working day for five (5) working days in every week regardless of whether the injured employee actually worked all or part of the time.

Section 77. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required ***by this subsection*** [~~herein~~], shall be the same as, and in accordance with, state travel ***administrative*** regulations and standards promulgated and established pursuant to KRS Chapter ***45*** [~~18A~~].

(3) If an employee refuses to submit himself to or in any way obstructs ***the*** [~~such~~] examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the administrative law judge may require.

(5) The ***department*** [~~board~~] shall supply forms for the report.

Section 78. KRS 342.235 is amended to read as follows:

The ***commissioner*** [~~board~~] and [~~its~~] employees or authorized representatives ***of the department*** shall, for traveling necessitated by the discharge of official duties, be reimbursed for transportation actually paid for, not exceeding the regular fare over the most direct route, and meals and lodging actually paid for.

Section 79. KRS 342.240 is amended to read as follows:

The ***department*** [~~board~~] shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The ***commissioner*** [~~board~~] shall provide necessary supplies, books, [~~and~~] periodicals, and maps and shall provide [~~itself with~~] a seal for the authentication of [~~its~~] orders, awards, or proceedings [~~and those~~] of the administrative law judges, on which shall be inserted the words "***Department of Workers' Claims*** [~~Workers' Compensation Board~~], State of Kentucky, official seal." The board and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the ***commissioner*** [~~board~~], all actions or proceedings against ***the board*** [~~it~~] or a member in his official capacity, or against an administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 80. KRS 342.260 is amended to read as follows:

(1) The ***commissioner*** [~~board~~] shall prepare [~~such~~] administrative regulations as ***he*** [~~it~~] considers necessary to carry on ***the*** [~~its~~] work ***of the department*** and the work of the administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.

(2) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof or any administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined ***those*** [~~such~~] parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(3) The sheriff shall serve all subpoenas of the board and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to ***the*** [~~such~~] subpoena of the board or any administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.

(4) The Circuit Court shall, on application of the board, any member thereof, or any administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 81. KRS 342.285 is amended to read as follows:

(1) An award or order of the administrative law judge as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions of fact, but either party may in accordance with administrative regulations promulgated by the ***commissioner*** [~~board~~] appeal to the Workers' Compensation Board for the review of ***the*** [~~such~~] order or award.

(2) No new or additional evidence may be introduced before the board except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling, or award, but the board shall otherwise hear the appeal upon the record as certified by the administrative law judge and shall dispose of the appeal in summary manner. The board shall not substitute its judgment for that of the administrative law judge as to the weight of evidence on questions of fact, its review being limited to determining whether or not:

(a) The administrative law judge acted without or in excess of his powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the provisions of this chapter;

(d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or

(e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(3) Within thirty (30) days from final submission, the board shall enter its decision affirming, modifying, or setting aside the order, decision, or award, or in its discretion remanding the claim to the administrative law judge for further proceedings in conformity with the direction of the board. The board may, before decision and upon a sufficient showing of fact, remand the claim to the administrative law judge.

Section 82. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employee was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time, except as otherwise provided in paragraph (a) of subsection (10) of this section; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, except that the time of the beginning of retraining incentive benefits awarded under KRS 342.732 shall be the date the award for ***those*** [~~such~~] benefits by the administrative law judge becomes final.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to ***the*** [~~such~~] disease shall be the same

as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted ***the*** ~~[such]~~ disease, or a diagnosis of ***the*** ~~[such]~~ disease is first communicated to him, whichever shall first occur;

(b) Except as provided in paragraph (d) of this subsection, the procedure with respect to filing of claims shall be as follows:

1. a. The application shall set forth the complete work history of the applicant with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The reports shall be made by duly licensed physicians. ~~[Within one hundred and eighty (180) days following October 26, 1987,]~~ The ***commissioner*** ~~[board]~~ shall promulgate administrative regulations which prescribe the format of the medical reports required ***by this section*** ~~[herein]~~ and the manner in which ***the*** ~~[such]~~ reports shall be completed.

b. For coal-related occupational pneumoconiosis claims, each clinical examination shall include chest X-ray examinations and spirometric tests.

c. For other compensable occupational pneumoconiosis claims, each clinical examination shall include X-ray examinations and appropriate pulmonary function tests.

2. To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust, shall comply with accepted medical standards as follows:

a. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

b. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and the 1978 ATS epidemiology standardization project. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The ***commissioner*** ~~[board]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of subsection (2)(b) of this section. The ***commissioner*** ~~[board]~~ shall periodically review the applicability of the spirometric test values contained in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

(c) Except as provided in paragraph (d) of this subsection, the procedure with respect to the determination of claims shall be as follows:

1. Immediately upon receipt of said application for adjustment of claim, the commissioner shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim;

2. Upon receipt of notice of the claim, the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. Within thirty (30) days of any such examination, the claimant or his representative shall be furnished a copy of said medical report by the party requesting such report. Also,

the employer, the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at ***the employer's*** [~~their~~] expense, including a reasonable sum for travel. Within thirty (30) days of any ***vocational*** [~~such~~] examination, the claimant or his representative, shall be furnished a copy of ***that*** [~~said~~] vocational report by the party requesting ***that*** [~~such~~] report; and

3. Within sixty (60) days of the receipt of the claim, the employer, the special fund, and any other interested party shall notify the ***commissioner*** [~~board~~] and the claimant whether or not the claim will be resisted. If the claim is not resisted, then an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall set a date for a prehearing conference and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] shall be followed. Upon request of an interested party and a showing of good cause, the administrative law judge may extend, one (1) time, the time period for filing a notice of resistance as prescribed in this subparagraph, ***but the*** [~~provided said~~] extension shall not exceed thirty (30) days.

(d) For claims filed under subsection (1)(a) of KRS 342.732, the procedure shall be as follows:

1. For retraining incentive benefits under KRS 342.732, the claimant shall file two (2) X-rays and the reports thereof which shall conform to the standard for X-rays contained ***in this subsection*** [~~herein~~].

2. The commissioner shall notify the affected employer of ***the*** [~~such~~] claim and shall furnish him with a full and complete copy of the claim.

3. Within sixty (60) days of the receipt of the claim, the employer shall notify the commissioner and the claimant whether or not the claim will be resisted. If the claim is not resisted, an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall notify the affected employee thereof. In litigated claims, the regular procedures prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] shall be followed.

(3) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the ***commissioner*** [~~Workers' Compensation Board~~] within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within ***that*** [~~said~~] period, unless a claim therefor be filed with the ***commissioner*** [~~Workers' Compensation Board~~] within three (3) years after ***the*** [~~such~~] death; ***but*** [~~provided, however,~~] that notice of [~~such~~] claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employee and its cause was known to the employer. [~~Provided,~~] However, [~~that~~] the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the ***commissioner*** [~~Workers' Compensation Board~~] within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income or retraining incentive benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(4) The amount of compensation payable for disability due to occupational disease or for death from ***the*** [~~such~~] disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but***:***

(a) In no event ***shall the payment*** [~~to~~] exceed ***the*** [~~such~~] amounts ***that*** [~~as~~] were in effect at the time of the last injurious exposure***;***[~~, and provided further, that~~]

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later***;***[~~,~~] and

(c) [~~provided further, that~~] In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, ***and*** an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section.

(5) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(6) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the

employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of ***the occupational*** [~~such~~] disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(7) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, ***except*** [~~save~~] only ***for*** [~~to~~] after-born children of a marriage existing at the beginning of such disability.

(8) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of ***the*** [~~such~~] cause, that the claim for injury, disability, or death which was the basis for ***his*** [~~such~~] application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for [~~such~~] injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and [~~such~~] compensation may be awarded ***that*** [~~as~~] is warranted by the whole evidence pursuant to the provisions of this chapter. When [~~such~~] amendment ***of this type*** is submitted, further or additional evidence may be heard by the administrative law judge when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required ***by this subsection*** [~~herein~~].

(9) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided ***in this chapter*** [~~herein~~].

(10) (a) Except as provided in paragraph (c) of this subsection, the employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employee was last exposed to the hazard of ***that*** [~~such~~] occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the ***commissioner*** [~~board~~] may provide for such purpose; and

(b) In all claims for compensation partially payable by the special fund, the Director of the Division of the Special Fund shall be designated as codefendant.

(c) The employer in whose employment the employee was last exposed to the hazard of the disease shall alone be liable for payment of retraining incentive benefits awarded under KRS 342.732.

Section 83. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340, groups of employers may form, either among themselves or with employers in other states, mutual insurance associations, or reciprocal or interinsurance exchanges subject to the insurance laws of this state and ***any*** [~~such~~] reasonable conditions and restrictions not inconsistent therewith [~~as may be~~] fixed by the ***commissioner*** [~~board~~]. Membership in ***these*** [~~such~~] mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The ***commissioner*** [~~board~~] may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make ***a*** [~~such~~] deposit with a bank or trust company of this state ***that*** [~~as~~] shall in either case be approved by the ***commissioner*** [~~board~~] for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make [~~such~~] a deposit with a bank or trust company of this state for the

purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(4) In addition, the ***commissioner***[~~board~~], under ***administrative*** [~~rules and~~] regulations ***that he*** [~~as it~~] shall prescribe, may permit eleven (11) or more employers or two (2) or more city, county, municipal, or urban-county employers or their agencies to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. Employers securing certification as group self-insurers are regulated by the ***administrative*** [~~rules and~~] regulations drawn by the ***commissioner*** [~~Workers' Compensation Board~~] and are not to be in any way subject to the provisions of subsections (1), (2), and (3) of this section; [~~provided,~~] however, [~~that~~] the Governor may assign the regulatory authority under this subsection to another board or agency pursuant to KRS 12.028.

Section 84. KRS 342.380 is amended to read as follows:

No policy of insurance or rider to be used therewith shall be issued or delivered until a copy of its form has been filed with the commissioner [~~of the Department of Insurance~~] at least thirty (30) days before such issue or delivery, unless before the expiration of thirty (30) days the commissioner has approved the form thereof in writing; nor if the commissioner notifies the company in writing that in his opinion the form of the policy or rider does not comply with the laws of this state, specifying fully the reasons for his opinion. Upon petition of the company, the decision of the commissioner shall be subject to review by the Franklin Circuit Court and to appeal therefrom to the Court of Appeals.

Section 85. KRS 342.382 is amended to read as follows:

(1) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on its workers' compensation experience only to the Department of ***Workers' Claims***[~~Insurance~~] and the Workers' Compensation Advisory Council each year, and ***that*** [~~such~~] information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment gain or loss.

(2) [~~(a)~~] The first report of the information required in subsection (1) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988. Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (1) of this section broken down by year for the current and two (2) preceding years.

[~~(b) Within thirty (30) days after March 1, 1989, the Department of Insurance shall commence a review of the rates of all workers' compensation insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within sixty (60) days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department shall order that a new rate schedule be thereafter filed by the filer and shall further specify the manner in which noncompliance shall be corrected.~~]

Section 86. KRS 342.395 is amended to read as follows:

(1) Where an employer is subject to this chapter, then every employee of ***that*** [~~such~~] employer, as a part of his contract of hiring or who may be employed at the time of the acceptance of the provisions of this chapter by ***the*** [~~such~~] employer, shall be deemed to have accepted all the provisions of this chapter and shall be bound thereby unless he shall have filed, prior to the injury or incurrence of occupational disease, written notice to the contrary with the employer; and ***the*** [~~such~~] acceptance shall include all of the provisions of this chapter with respect to traumatic personal injury, silicosis, and any other occupational disease. However, before an employee's written notice of rejection shall be considered effective, the employer ***shall*** [~~must~~] file the employee's notice of rejection with the ***Department of Workers' Claims***[~~Workers' Compensation Board~~]. The ***commissioner of that department*** [~~Workers' Compensation Board~~] shall not give effect to any rejection of this chapter not voluntarily made by the employee. If an employee withdraws his rejection, the employer shall notify the ***commissioner***[~~Workers' Compensation Board~~].

(2) Until [~~such~~] notice to the contrary ***as specified in subsection (1) of this section*** is [~~so~~] given to the employer, the measure of liability of ***the*** [~~such~~] employer shall be determined according to the compensation provisions of this chapter. Any [~~such~~] employee, may, without prejudice to any existing right or claim, withdraw his election to reject this chapter by filing with the employer a written notice of withdrawal, stating the date when the withdrawal is to become effective. Following the filing of ***that*** [~~such~~] notice, the status of the party withdrawing shall become the same as if the former election to reject this chapter had not been made, except that withdrawal shall not be effective as to any injury sustained or disease incurred less than one (1) week after the notice is filed.

Section 87. KRS 342.402 is amended to read as follows:

The ***commissioner***[~~Workers' Compensation Board~~], upon showing a certification of noncompliance, may temporarily restrain or temporarily or permanently enjoin the further operation of any employer covered by this chapter. ***The*** [~~Such~~] action shall be brought in Franklin Circuit Court.

Section 88. KRS 342.425 is amended to read as follows:

Upon the request of the ***commissioner***[~~board~~], the Attorney General, or, under his direction, the Commonwealth's attorney or county attorney of any county, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this chapter arising within his jurisdiction, and shall defend in like manner all actions or proceedings brought against the ***department***[~~board~~], the ***employees*** [~~members~~] thereof***, board members,*** or administrative law judges in their official capacity.

Section 89. KRS 342.430 is amended to read as follows:

The ***commissioner*** [~~board~~] shall prepare and furnish, free of charge, blank forms of all notices, claims, reports, proofs***,*** and other blank forms and literature which ***he*** [~~it~~] considers proper and requisite to the efficient administration of this chapter. ***He*** [~~It~~] may authorize the publication and distribution of ***these*** [~~such~~] blanks by employers and their insurers in manner and form provided by ***him***[~~it~~], and shall ***promulgate administrative regulations*** [~~make rules~~] for their distribution so that they may be readily available.

Section 90. KRS 342.435 is amended to read as follows:

Annually on or before the ***fifteenth*** [~~15th~~] day of December***,*** the ***commissioner*** [~~board~~] shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the ***commissioner*** [~~board~~] deems proper to call to the attention of the Governor, including any recommendations ***he*** [~~it~~] may have to make, and it shall be the duty of the ***commissioner*** [~~board~~] to publish and distribute among employers and employees ***any*** [~~such~~] general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to ***the*** [~~such~~] provisions of the general laws governing public printing [~~as may be~~] applicable thereto.

Section 91. KRS 342.1227 is amended to read as follows:

Except as provided in Section 53. of this Act, funds which are under the jurisdiction of the commission shall not:

(1) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authorized by this chapter;

(3) Be expended for any other purpose than one authorized by this chapter.

Section 92. KRS 342.650 is amended to read as follows:

The following employees are exempt from the coverage of this chapter:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two (2) employees each regularly employed forty (40) or more hours a week in ***domestic servant*** [~~such~~] employment.

(2) Any person employed, for not exceeding twenty (20) consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or if the employer has no other employees subject to this chapter, in or about the premises where ***that*** [~~such~~] employer carries on his trade, business***,*** or profession.

(3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States, except those persons covered under Title IV, Public Law 91-173, 91st Congress, commonly referred to as the Black Lung Benefits of

the Federal Coal Mine Health and Safety Act of 1969, or as amended.

(5) Any person employed in agriculture.

(6) Any person who would otherwise be covered but who elects not to be covered in accordance with the ***administrative*** [~~rules and~~] regulations promulgated by the ***commissioner***[~~board~~].

(7) Any person participating as a driver or passenger in a voluntary vanpool or carpool program while that person is on the way to or from his place of employment. For the purposes of this subsection***,*** carpool or vanpool means any method by which two (2) or more employees are transported from their residences to their places of employment.

Section 93. KRS 342.660 is amended to read as follows:

(1) An employer who has in his employment any employee exempted under KRS 342.650 may elect to be subject to this chapter. ***This*** [~~Such~~] election on the part of the employer shall be made by the employer securing the payment of compensation to ***these*** [~~such~~] exempted employees in accordance with KRS 342.340. Any employee, otherwise exempted under KRS 342.650, of ***the*** [~~such~~] employer shall be deemed to have elected to come under this chapter, if at the time of the injury for which liability is claimed, ***his*** [~~such~~] employer has in force an election to be subject to this chapter with respect to the employment in which ***the*** [~~such~~] employee was injured and ***the*** [~~such~~] employee has not, either upon entering into employment or within five (5) days after the filing of an election by the employer given to ***his*** [~~such~~] employer and to the ***commissioner*** [~~board~~] notice in writing that he elects not to be subject to this chapter.

(2) ***An*** [~~Such~~] employer ***within the scope of subsection (1) of this section***, within five (5) days after securing the payment of compensation in accordance with KRS 342.340, shall give the ***commissioner*** [~~board~~] written notice of his election to be subject to this chapter. ***The*** [~~Such~~] employer shall post and keep posted on the premises where any employee or employees, otherwise exempted under KRS 342.650, works, printed notices furnished by the ***commissioner*** [~~board~~] stating his acceptance of this chapter. Failure to give the notices required by this paragraph shall not void or impair the employer's election to be subject to or relieve him of any liability under this chapter.

(3) Any employer who has complied with subsection (2) of this section may withdraw his acceptance of this chapter, by filing written notice with the ***commissioner*** [~~board~~] of the withdrawal of his acceptance. ***A*** [~~Such~~] withdrawal shall become effective 60 days after the filing of [~~such~~] notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The withdrawal shall not be effective until the employer shall theretofore post notice of ***the*** [~~such~~] withdrawal where the affected employee or employees work or shall otherwise notify ***the*** [~~such~~] employees of [~~such~~] withdrawal.

Section 94. KRS 342.670 is amended to read as follows:

(1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this chapter had ***that*** [~~such~~] injury occurred within this state, ***that*** [~~such~~] employee, or in the event of his death resulting from ***that*** [~~such~~] injury, his dependents, shall be entitled to the benefits provided by this chapter, ***if*** [~~provided that~~] at the time of ***the*** [~~such~~] injury:

(a) His employment is principally localized in this state, or

(b) He is working under a contract of hire made in this state in employment not principally localized in any state, or

(c) He is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to his employer, or

(d) He is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, ***if a*** [~~provided that~~] claim under this chapter is filed within two (2) years after ***that*** [~~such~~] injury or death. If compensation is paid or awarded under this chapter:

(a) The medical and related benefits furnished or paid for by the employer under ***another jurisdiction's*** [~~such other~~] workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(b) The total amount of all income benefits paid or awarded the employee under ***another jurisdiction's*** [~~such other~~] workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter; ***and***

(c) The total amount of death benefits paid or awarded under ***another jurisdiction's*** [~~such other~~] workers' compensation law shall be credited against the total amount of death benefits due under this chapter***.***[~~;~~]

(3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the ***commissioner*** [~~board~~] a certificate, issued by the commission or agency of ***the*** [~~such~~] other state having jurisdiction over workers' compensation claims, certifying that ***the*** [~~such~~]

employer has secured the payment of compensation under the workers' compensation law of ***the*** [~~such~~] other state and that with respect to ***the*** [~~said~~] injury ***the*** [~~such~~] employee is entitled to the benefits provided under ***that*** [~~such~~] law, and that the benefits to which ***the*** [~~such~~] employee or his dependents is entitled are at least as great as those to which he would be entitled if the injury occurred and was processed under Kentucky law, under Kentucky coverage. In ***this*** [~~such~~] event:

(a) The filing of ***the*** [~~such~~] certificate shall constitute an appointment by ***the*** [~~such~~] employer or his carrier of the ***commissioner*** [~~board~~] as his agent for acceptance of the service of process in any proceeding brought by ***the*** [~~such~~] employee or his dependents to enforce his or their rights under this chapter on account of ***the*** [~~such~~] injury;

(b) The ***commissioner*** [~~board~~] shall send to ***the*** [~~such~~] employer or carrier, by certified mail to the address shown on ***the*** [~~such~~] certificate, a true copy of any notice of claim or other process served on the ***commissioner*** [~~board~~] by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(c) 1. If ***the*** [~~such~~] employer is a qualified self-insurer under the workers' compensation law of ***the*** [~~such~~] other state, ***the*** [~~such~~] employer shall, upon submission of evidence satisfactory to the ***commissioner*** [~~board~~], of his ability to meet his liability to ***the*** [~~such~~] employee under this chapter, be deemed to be a qualified self-insurer under this chapter;

2. If ***the*** [~~such~~] employer's liability under the workers' compensation law of ***the*** [~~such~~] other state is insured, ***the*** [~~such~~] employer's carrier, as to ***the*** [~~such~~] employee or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; [~~provided,~~] however, [~~that~~] unless its contract with ***the*** [~~said~~] employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of ***the*** [~~such~~] benefits for which ***the*** [~~such~~] insurer would have been liable under the workers' compensation law of ***the*** [~~such~~] other state;

(d) If the total amount for which ***the*** [~~such~~] employer's insurance is liable under (c) above is less than the total of the compensation benefits to which ***the*** [~~such~~] employee is entitled under this chapter, the ***commissioner*** [~~board~~] may, if ***he*** [~~it~~] deems it necessary, require the employer to file security, satisfactory to the ***commissioner*** [~~board~~], to secure the payment of benefits due ***the*** [~~such~~] employee or his dependents under this chapter; and

(e) Upon compliance with the preceding requirements of this subsection (3), ***the*** [~~such~~] employer, as to ***the*** [~~such~~] employee only, shall be deemed to have secured the payment of compensation under this chapter.

(4) As used in this section:

(a) "United States" includes only the states of the United States and the District of Columbia;

(b) "State" includes any state of the United States, the District of Columbia, or any province of Canada;

(c) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law;

(d) A person's employment is principally localized in this or another state when:

1. His employer has a place of business in this or ***the*** [~~such~~] other state and he regularly works at or from ***that*** [~~such~~] place of business, or

2. If subparagraph 1. foregoing is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or ***the*** [~~such~~] other state;

(e) An employee whose duties require him to travel regularly in the service of his employer in this and one (1) or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another [~~such~~] state, and, unless ***the*** [~~such~~] other state refuses jurisdiction, ***the*** [~~such~~] agreement shall be given effect under this chapter;

(f) "Workers' compensation law" includes "occupational disease law."

Section 95. KRS 342.720 is amended to read as follows:

If death results from the injury, the employer shall pay the cost of burying in an amount not to exceed four thousand dollars ($4,000) to any person who performed ***the*** [~~such~~] service or incurred the liability for the service, whether or not the employee leaves dependents within the meaning of this chapter. Any such person is hereby authorized to file a petition with the ***commissioner*** [~~board~~] for the fixing of the amount of the service and for an order requiring the employer to pay the cost of the service. If death occurs while the employee is away from his usual place of business or residence, the employer shall be liable for the additional reasonable cost of transportation of the body to the employee's place of residence within the Commonwealth of Kentucky.

Section 96. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the ***commissioner*** [~~board~~] as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky

Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. ***This*** [~~Such~~] average weekly wage shall be certified to the ***commissioner*** [~~board~~] by the Cabinet for Human Resources in a manner prescribed by the ***commissioner*** [~~board~~] by ***administrative*** regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of ***an*** [~~such~~] amount that ***increases or decreases*** the minimum weekly income benefits for total disability or death [~~are increased or decreased~~] by $1 or more, or the maximum weekly income benefits for total disability or for death [~~are increased or decreased~~] by $2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in ***these*** [~~such~~] limitations shall otherwise be made.

Section 97. KRS 342.790 is amended to read as follows:

When an award is made against an employer who:

(1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer;[~~,~~] and

(2) Has not made a deposit of security, indemnity, or bond acceptable to the ***commissioner*** [~~board~~] to secure the payment of compensation liability; and

(3) Has failed to make payment of compensation according to the terms of ***that*** [~~such~~] award, the award shall constitute a liquidated claim for damages against ***that*** [~~such~~] employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the ***commissioner*** [~~board~~], and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against ***that*** [~~such~~] employer in the name of the uninsured employers' fund for the collection of ***that*** [~~such~~] award. In ***that*** [~~such~~] action, it shall be sufficient for plaintiff to set forth a copy of the award of the administrative law judge relative to ***the*** [~~such~~] claim as certified by the commissioner and to state that there is due to plaintiff on [~~such~~] account of ***the*** [~~such~~] opinion, order, or award of the administrative law judge a specified sum which plaintiff claims with interest. A certified copy of ***the*** [~~such~~] award in ***the*** [~~such~~] claim shall be attached to the complaint and ***shall constitute*** [~~constitutes~~] prima facie evidence of the truth of the facts therein contained.

Section 98. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon these farmlands, shall have the same privilege.

(4) Residents or nonresidents observing, and participating in any field trial as authorized by the department may observe and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while doing so shall carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the Veterans Administration. He shall forward the copy to the Director of the Division of Law Enforcement of the Department of Fish

and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of the certification.

(8) Any resident who is declared totally and permanently disabled by the Federal Social Security Administration or by the state ***Department of Workers' Claims*** ~~[Workers' Compensation Board]~~ may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses.

(9) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(10) If a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 99. KRS 164.2842 is amended to read as follows:

(1) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(3) In the absence of certification of permanent and total disability by the Kentucky ***Department of Workers' Claims*** ~~[Workers' Compensation Board]~~, the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.

(6) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 100. KRS 164.515 is amended to read as follows:

(1) The spouse, regardless of age, and any child or orphan of a permanently and totally disabled member of the Kentucky National Guard injured while on state active duty, active duty for training, or inactive duty training, a permanently and totally disabled war veteran or prisoner of war or member of the Armed Services declared missing in action, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education or to any state supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans' Administration or the Department of Defense or if deceased the claim to benefits is to be based

on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans' Administration Records, or the Department of Defense of the United States.

(3) In the absence of certification of permanent and total disability by the Kentucky ***Department of Workers' Claims*** [~~Workers' Compensation board~~], the United States Veterans' Administration or the Department of Defense, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse, child or orphan to benefit under this section the disabled member of the National Guard or war veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training with the National Guard or during time of war or the Korean conflict or subsequent periods of federally recognized hostilities or have been disabled by hostile fire in the Armed Forces of the United States, and his discharge therefrom must have been under honorable conditions. He must be a resident or if deceased, was a resident of the Commonwealth of Kentucky.

(6) No provision of this section shall serve to deny these benefits to an eligible spouse, child, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged therefrom under honorable conditions; such period of time spent in the military service to be compensated by like time, beyond the age of twenty-three (23) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

(7) The marriage of an eligible child, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

PART 17

REPEALS

Section 101. The following KRS section is repealed:

342.800 Application to claims -- Filing under Federal Coal Mine Health and Safety Act.

PART 18

EFFECTIVE DATES

Section 102. (1) Subsection (25) of Section 1 of this Act relating to the definition of premiums for deductible policies shall be effective retroactively for insurance policies or other evidences of coverage with deductibles in effect on and after January 1, 1994.

(2) The provisions of subsection (6) of Section 33 of this Act that relate to special fund assessments on deductible insurance policies or other evidences of coverage providing a deductible shall be effective retroactively for policies or other evidences of coverage in effect on or after January 1, 1994.

(3) The provisions of Section 35 that relate to refunds or credits for special fund assessments shall be effective retroactively to January 1, 1994.

Section 103. Whereas there is a workers' compensation crisis in the Commonwealth; and the projected unfunded liability of the Workers' Compensation special fund is projected to be approximately two billion dollars ($2,000,000,000.00); and the voluntary insurance market in the Commonwealth is rapidly disappearing and approximately fifty percent (50%) of the workers' compensation insurance market is in the Kentucky Workers Compensation Insurance Plan (KWCIP), the workers' compensation residual market mechanism in the Commonwealth; and more than fifty percent (50%) of each workers' compensation benefit dollar is attributable to medical costs, an emergency is declared to exist and the provisions of this Act shall become effective upon their passage and approval by the Governor.".

SB 232, AN ACT relating to plumbing and sewage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.355 is amended to read as follows:

(1) Any local board of health [~~authorized to serve as agent of the Cabinet for Human Resources for the issuance of permits for on-site sewage disposal systems~~] may set a schedule of fees reasonably related to the cost of administering programs including:

(a) Inspections incidental to construction, installation, [~~and~~] alteration***, or repair*** of on-site sewage disposal systems; and

(b) Inspections incidental to maintenance and operation of on-site sewage disposal systems.

(2) [~~Such~~] Fees shall be designed to [~~fully~~] cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of ***the*** [~~said~~] program.

(3) Nothing in this section shall authorize [~~or allow~~] the cabinet to inspect any on-site sewage disposal system constructed prior to July 15, 1986, unless ***the*** [~~such~~] inspection is deemed necessary ***to abate a public health nuisance*** [~~due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint~~].

Section 2. KRS 211.370 is amended to read as follows:

Local health departments [~~The commissioner of the Department for Health Services shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health~~] shall comply with the ***administrative*** regulations ***promulgated*** [~~established~~] by the cabinet ***pursuant to KRS Chapter 13A*** relating to on-site sewage disposal systems. [~~The local board of health shall include in the written request a procedure for administering this section.~~] The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class and in urban counties, the local board of health may adopt regulations relating to the proper construction, installation***,*** [~~and~~] alteration***, or repair*** of on-site sewage disposal systems which are more stringent than the ***administrative*** regulations adopted by the cabinet.

Section 3. KRS 318.200 is amended to read as follows:

[~~(1)~~] No water heating device shall be sold or offered for sale in the Commonwealth of Kentucky unless it contains a serial number on it. As used in this section, "water heating device" means any pressure vessel which heats, stores, and supplies potable water for domestic or commercial purposes other than for space heating.

[~~(2) All retailers, wholesalers, and installers selling or offering for sale a water heating device shall, within thirty (30) days of the date of sale, forward a list of names and addresses of purchasers along with the serial numbers of the devices purchased to the department or to the appropriate agency of county or city government having jurisdiction.~~]

Motions, Petitions and Communications (Continued)

Representative Northup moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Northup moved that she be recorded as voting "yea" on **SB 136**. Agreed.

Adjournment

Representative Bowling moved that the House adjourn until 10:00 a.m., Friday, March 25, 1994.

The motion to adjourn was adopted by voice vote.

FRIDAY, MARCH 25, 1994

FIFTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Clarence H. Gibson, Providence Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representatives Harper, Little and R. Smith.

Senate Message

Announcing passage of **HB 336, HB 357, HB 377, HB 386, HB 490, HB 501, HB 538, HB 591, HB 645, HB 652, HB 719, HB 776, HB 852** and **HJR 23**.

Message received on **HB 322, HB 327, HB 442, HB 533, HB 622, HB 664, HB 681**. The Senate has passed **HB 322**, by way of Senate Committee Substitute and Senate Floor Amendment, **HB 327**, with Senate Committee Amendment and Senate Floor Amendment, **HB 442**, with Senate Committee Amendments, **HB 533**, with Senate Committee Amendment **HB 622**, by way of Senate Committee Substitute and Senate Floor Amendment, **HB 664**, by way of Senate Committee Substitute, and **HB 681**, by way of Senate Committee Substitute.

SB 242 returned with the following message: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 242** and respectfully returns it with the request that this Honorable Body recede from the House Floor Amendment No. 1 to **SB 242**. (Time: 10:05 a.m.)

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 24, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Brown moved that the rules be suspended to grant floor privileges and to introduce a guest. Agreed.

Representative Adams moved that the rules be suspended to introduce guests. Agreed.

Report On Enrolled Bills

HB 268, HB 355, HB 462, HB 505, HB 551 and **HB 565** delivered to the Senate and signed by the President. Delivered to the Governor on March 25, 1994 at 10:10 a.m.

Representative Collins moved that the rules be suspended to withdraw **HB 677**. Agreed.

Introduction of Bills and Resolutions

HR 112, by Representatives Shacklette, L. Clark, P. Clark, Gray, Hatcher, Wayne, Lile, Ackerson, Burch, Riner, Heleringer, DeWeese, Yates and Stengel: A RESOLUTION directing the Kentucky High School Athletic Association to continue the policy of rotation between Louisville and Lexington for the hosting of the Boys' High School Basketball Tournament.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **SB 278**, by Representative Geveden:

On page 1, after line 11, to add the following:

"Section 2. KRS 403.250 is amended to read as follows:

(1) Except as otherwise provided in subsection (6) of KRS 403.180, the provisions of any decree respecting maintenance may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. The provisions as to property disposition may not be revoked or modified, unless the court finds the

existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party, ~~[or]~~ the remarriage of the party receiving maintenance***, or the cohabitation of the party receiving maintenance with another person on a resident, continuing, conjugal basis***."

Floor Title Amendment No. 3 to **SB 154**, by Representative Treesh:

By amending the title to read "AN ACT relating to agriculture."

Floor Amendment No. 4 to **SB 154**, by Representative Treesh:

On page 3 below line 19 by adding the following:

"Section 2. KRS 246.070 is amended to read as follows:

(1) The Commissioner shall promote and encourage, as far as practicable, the organization of agricultural and horticultural societies and other associations and ascertain the agricultural, horticultural, mechanical, commercial and educational condition of every county. He shall ascertain in detail the quality and quantity of land under cultivation; the kinds, amounts and value of the annual field crops; the annual production of orchards, gardens, dairies and mines; the quantity and value of domestic manufactures; the kinds, value and increase of livestock; the annual products of mechanical industry and skill; the character and wages of labor employed in mines, factories and the cultivation of the soil; the value of exports and imports; the number of miles and names of railroads, navigable streams and post offices in each county; how and by whom public roads are operated and kept in repair; the name, location and population of cities and villages; the number and value of school houses and churches; the names, capital and purposes of charitable institutions, and such other vital, social, physical and political statistics as he may deem proper and expedient.

(2) The Commissioner may, if he thinks it will promote the objects of the department, expend such sums as are available in:

(a) The payment of premiums ***and grants*** that he offers to encourage the agricultural industry of the state;

(b) The distribution of seeds that the United States government desires to introduce into this state;

(c) The purchase, importation and exchange of any seeds that he deems of value to the agricultural interests of the state; and

(d) The analyzation of soils in different parts of the state in the interest of agriculture."

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Walton moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Lewis moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 183**. Agreed.

Representative Farley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farley moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Moberly moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Moberly moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Richards moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richards moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Lyne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "nay" on **HB 455**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **SB 136**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **SB 311**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 239**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 225**. Agreed.

Representative Butler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Butler moved that his vote be changed from "yea" to "nay" on **SB 311**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 337**, by Representative Johnson:

On -page 1, line 15, to place brackets around and strike through the word "detention"

Calendar

SB 308, SB 361, SB 55, SB 222, SB 278, SB 319, SB 337, SB 331, SB 284, SB 232, SB 270, SB 213, and **SB 297** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 185, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. to **SB 185**. Agreed.

Representative Barrows moved that **SB 185**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 25, 1994 roll call on **SB 185** - Appendix)

SB 185, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 185**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 199 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **SB 199** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 25 , 1994 roll call on **SB 199** - Appendix)

SB 199 was passed and the title agreed to.

Representative Callahan moved that the vote by which **SB 199** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 74, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 74** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 25 , 1994 roll call on **SB 74** - Appendix)

SB 74 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 74** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 151, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 2 to **SB 151**. Agreed.

Representative B. Smith moved that **SB 151**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See March 25, 1994 roll call on **SB 151** - Appendix)

SB 151, as amended, was passed.

Representative B. Smith moved the adoption of the Floor Title Amendment to **SB 151**. Agreed; and the title was agreed to.

Representative B. Smith moved that the vote by which **SB 151**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 351**, by Representative Morris:

On page 2, line 7, after "*disclosure*", by inserting "*except pursuant to subsection (6) of this section*"; and

On page 2, lines 10, 11, and 12, by deleting the words, " *A summary of the report shall be made available to a news-gathering organization that requests documents related to the accident.*" and by inserting the following in lieu thereof:

"*(6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.*"

Floor Amendment No. 1 to the Committee Substitute to **SB 222**, by Representative Stengel:

On page 7, line 3, following "arrangements" to insert a "*.*" and to place brackets around and strike through "; or"; and

On page 7, at the end of line 3, to add the following:

"*The court, upon motion of the county attorney and with the concurrence of the cabinet, shall review the order of commitment and upon a finding that:*

(a) The person has refused treatment; and

(b) The person has reached the age of eighteen (18) years, and the order to commit occurred after the person reached the age of seventeen (17) years and six (6) months, the court may remand the order of commitment and order that the person be confined in an adult facility for a period of time not to exceed one (1) year; or"; and

On page 7, after line 7, add the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

(1) No person who has reached the age of eighteen (18) years of age shall be detained in a secure juvenile detention facility or a juvenile holding facility.

(2) Any person who is eighteen (18) years of age or older when charged as a public or youthful offender shall be lodged as an adult and the juvenile court shall set bond pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.

(3) Any child who attains the age of eighteen (18) while detained in a secure juvenile facility or a juvenile holding facility shall be transferred out of the juvenile facility when he turns eighteen (18) years of age and shall be lodged as an adult. The juvenile court shall immediately set bond pursuant to KRS Chapter 431 and the Kentucky Rules of

Criminal Procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

If in its decree the court commits the child to the custody or guardianship of the cabinet, the court may order further detention of the child for a reasonable time upon a finding of the court by a preponderance of the evidence that the cabinet has found a suitable residential facility for the juvenile but has no bed in that facility or another facility of equal stability currently available and the circumstances surrounding the child are such as to endanger his safety or welfare or that of the community.

Section 6. KRS 610.280 is amended to read as follows:

(1) (a) If a child is detained ***pursuant to KRS 610.265*** for the alleged commission of a public offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention ***if the child is detained in an intermittent holding facility. If the child is detained in a secure juvenile detention facility or a juvenile holding facility then a hearing must be held as soon as practical, but not to exceed seventy-two (72) hours, exclusive of weekends and holidays, of the commencement of detention***.

(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention.

(2) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case; and

(b) In determining detention, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child.

(3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention."

Floor Amendment No. 1 to **SB 232**, by Representative P. Clark:

On page 2, by deleting lines 8 through 16 in their entirety.

Orders of the Day (Continued)

SB 154, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 3 to **SB 154.**

Representative French inquired if Floor Amendment No. 3 was germane to **SB 154.**

Representative French moved to withdraw the inquiry if Floor Amendment No. 3 was germane to **SB 154**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 3 to **SB 154**. Rejected.

Representative Burch moved that **SB 154** be passed.

On the roll call the vote was: Yeas 75, Nays 17. (See March 25, 1994 roll call on **SB 154** - Appendix)

SB 154 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 154** was passed be reconsidered.

Representative Worthington moved that the motion that the vote by which **SB 154** was passed be reconsidered be laid on the table.

On the roll call to table the motion to reconsider the vote by which **SB 154** was passed, the vote was **Yeas 31**--Adams, Allen, Altman, Bentley, Brown, Bruce, Bryant, Buis, Curd, Cyrus, Ford, French, Gedling, Hampton, Jensen, Keith, Lewis, Lyne, Mason, Mullinix, Napier, Nelson, Nesler, Noland, Reinhardt, Sanders, Stacy, Todd, Turner, Walton, Worthington. **Nays 60**--

Ackerson, Adkins, Arnold, Ballard, Bondurant, Bowling, Burch, Butler, Callahan, Cave, L. Clark, Clarke, Coleman, Collins, Crenshaw, Deskins, DeWeese, Donnermeyer, Farrow, Fox, Gee, Geveden, Graham, Gray, Hancock, Hatcher, Heleringer, Johnson, Kerr, Lear, Lee, LeMaster, Lile, Lindsay, Long, Maggard, Maricle, Marzian, McElroy, Moberly, Morris, Northup, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stengel, Stumbo, Trapp, Treesh, Wayne, Yates.

The motion to table the motion that the vote by which **SB 154** was passed be reconsidered was rejected.

Representative Lear moved that the vote by which **SB 154** was passed be reconsidered.

On the roll call to reconsider the vote on **SB 154**, the vote was **Yeas 55**--Ackerson, Arnold, Bondurant, Bowling, Brown, Burch, Butler, Callahan, Cave, L. Clark, Coleman, Crenshaw, Deskins, DeWeese, Donnermeyer, Fox, Geveden, Gray, Hatcher, Heleringer, Johnson, Kerr, Lear, Lee, LeMaster, Lile, Lindsay, Long, Maggard, Marzian, Mason, McElroy, Moberly, Morris, Northup, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stengel, Stumbo, Trapp, Treesh, Walton, Wayne, Yates. **Nays 31**--Adams, Adkins, Allen, Altman, Ballard, Bentley, Bruce, Bryant, Buis, Collins, Curd, Cyrus, Ford, French, Gee, Graham, Hampton, Jensen, Keith, Lyne, Mullinix, Napier, Nelson, Nesler, Noland, Reinhardt, Sanders, Stacy, Todd, Turner, Worthington.

The motion that the vote by which **SB 154** was passed be reconsidered was adopted.

SB 154 was placed back in Orders of the Day.

SB 154, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that the vote by which Floor Amendment No. 3 to **SB 154** was defeated be reconsidered.

On the roll call to reconsider the vote by which Floor Amendment No. 3 to **SB 154**, the vote was **Yeas 63**--Ackerson, Adkins, Arnold, Bondurant, Bowling, Burch, Butler, Callahan, Cave, L. Clark, Clarke, Coleman, Crenshaw, Curd, Deskins, DeWeese, Farrow, Fox, Gedling, Geveden, Graham, Gray, Hancock, Hatcher, Heleringer, Johnson, Kerr, Lear, Lee, LeMaster, Lile, Lindsay, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Nelson, Northup, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Trapp, Treesh, Walton, Wayne, Yates. **Nays 30**--Adams, Allen, Altman, Ballard, Barrows, Bentley, Brown, Bruce, Bryant, Buis, P. Clark, Cyrus, Donnermeyer, Farley, Ford, French, Gee, Hampton, Jensen, Keith, Mullinix, Napier, Nesler, Noland, Nunn, Reinhardt, Sanders, Todd, Turner, Worthington.

The motion that the vote by which Floor Amendment No. 3 to **SB 154** was defeated be reconsidered was adopted.

Representative Burch moved the adoption of Floor Amendment No. 3 to **SB 154**.

Representative Stacy inquired if Floor Amendment No. 3 to was germane to **SB 154**.

The Speaker ruled that Floor Amendment No. 3 was not germane to **SB 154**.

Representative Stumbo moved that **SB 154** be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See March 25 , 1994 roll call on **SB 154** - Appendix)

SB 154 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 154** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SCR 81**, by Representative Lindsay:

On page 1, line 4, after "Kentucky", by adding ", including suggestions for implementing traditional elementary, middle, and secondary schools".

Floor Amendment No. 1 to **SB 361**, by Representative Farrow:

On page 19, after line 21 by adding:

"Section 19. KRS 304.14-040 is amended to read as follows:

(1) An employer or the employer's trustee may procure and effect an insurance contract upon the life or body of an employee for the purpose of funding a pension or other benefit plan established for the employee of the employer. ***Except as provided in subsection (4) of this section,*** no employer, nor employer's trustee, shall procure or cause to be procured any insurance contract on the life or body of an employee unless the benefits under the contract are payable to and utilized by an employee pension or other benefit plans. Nothing in this subsection shall be construed to require the employer or the employer's trustee to use or designate the benefits of any employee insurance contract for the specific benefit of the estate

of the particular insured on whose life or body the insurance contract producing the benefits was procured.

(2) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. No person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under ***the*** ~~[such]~~ contract are payable to the individual insured or his personal representatives, or to a person having, at the time when ***the*** ~~[such]~~ contract was made, an insurable interest in the individual insured.

(3) If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover ***the*** ~~[such]~~ benefits from the person so receiving them.

(4) "Insurable interest" as to ***the*** ~~[such]~~ personal insurance means that every individual has an insurable interest in the life, body and health of himself, and of other persons as follows:

(a) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; ~~[and]~~

(c) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in ***the*** ~~[such]~~ shares, has an insurable interest in the life, health or bodily safety of each individual party to ***the*** ~~[such]~~ contract for the purpose of ***the*** ~~[such]~~ contract only, in addition to any insurable interest which may otherwise exist as to ***the*** ~~[such]~~ individual***; and***

(d) Any domestic or foreign corporation which provides its active or retired employees with benefits under a retirement or other employee benefit plan governed by the Federal Employee Retirement Income Security Act of 1974, as amended, has an insurable interest in the life, health, or bodily safety of any active or retired employee of the corporation or of any of its subsidiaries who is covered by a plan, and any trustee of a trust established by the corporation for the sole benefit of the corporation shall have the same insurable interest in the employee as the corporation itself.

(5) An insurer shall be entitled to rely upon all statements, declarations and representations made by an individual applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

Section 20. KRS 304.14-080 is amended to read as follows:

No life or health insurance contract upon an individual, except a contract of group life insurance or of group or blanket health insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured having the power to contract as provided in KRS 304.14-070 applies therefor or has consented thereto in writing, except in the following cases:

(1) A spouse may effectuate ***the*** ~~[such]~~ insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to ***the*** ~~[such]~~ minor.

(3) Family policies may be issued insuring any two (2) or more members of a family on an application signed by either parent, a step-parent, or by a husband or wife."

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 92, SB 132, SB 133, SB 136, SB 157, SB 172, SB 225** and **SB 243** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:11 a.m.)

Orders of the Day (Continued)

SCR 86 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SCR 86** be adopted.

On the roll call the vote was: Yeas 82, Nays 0. (See March 25, 1994 roll call on **SCR 86** - Appendix)

SCR 86 was adopted.

Representative Stumbo moved that the vote by which **SCR 86** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 343**, by Representative Johnson:

On page 1, by inserting after line 12 the following new section:

"SECTION 2. A NEW SECTION OF KRS 65.210 TO 65.300 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the goals of controlling health care costs and improving the quality of and access to health care services will be significantly enhanced by some cooperative arrangements involving local governmental entities that would be prohibited by state and federal antitrust laws if undertaken without governmental involvement. The purpose of this section is to create an opportunity for the state to supervise arrangements and to substitute regulation for competition when an arrangement is likely to result in lower costs, or greater access or quality, than would otherwise occur in a competitive marketplace. The legislature intends that approval of relationships be accompanied by appropriate conditions, supervision, and regulation to protect against private abuses of economic power by having the board of directors of any local governmental hospital be controlled by a majority of individuals appointed by the government subdivision. The transactions and procedures for local governmental hospitals described in subsection (2) to (6) of this section are intended to constitute sufficient approval and ongoing oversight by a subdivision of the state to constitute state action so that such transactions and procedures will be exempt from federal and state antitrust regulation.

(2) As used in this section, "local governmental hospital" means any hospital owned or controlled by a local governmental entity including, but not limited to, a county hospital, a city hospital, hospital district, hospital acting under or a nonprofit 501(c)(3) hospital organized under the Interlocal Cooperation Act pursuant to KRS 65.210 to 65.300 and whose board of directors is controlled by the local governmental entity.

(3) A local governmental hospital, with the consent of the board of trustees and upon a finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may contract with another licensed hospital located within a reasonable distance to share or divide specialty or costly hospital services and equipment, or a local governmental hospital, with approval, may discontinue or avoid duplication of specialty or costly hospital services and equipment otherwise available to the community served for the purpose of minimizing costs for hospital services or improving health care.

(4) A local governmental hospital, with the consent of the board of directors and upon a finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may require or merge with any health facility, as defined in KRS 216B.010 if the resulting entity's board of trustees is and will on an ongoing basis be composed of a majority of directors selected by the governmental entity and the provisions of 216B.010 to 216B.990 are complied with by the local governmental hospital.

(5) A local governmental hospital, upon finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may engage in shared services, and other cooperative ventures with any other facility.

(6) A local governmental hospital, upon a finding by the local government entity or the trustees or directors of the hospital appointed by or approved by a local government entity of cost savings, quality improvements, or price reductions, may enter into partnerships, or form or be a shareholder of corporations, or have members of its governing body serve as directors, officers or employees of any venture, association, or partnership, or corporation authorized under this section."

Floor Amendment No. 1 to **SB 214**, by Representative Lewis:

on page after line by adding the following:

Section 1. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean any facility or property, located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the [~~atmospheric~~]fluidized bed combustion technology must constitute the major energy source for the primary operations of the facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the Revenue Cabinet pursuant to KRS 211.392.

Section 2. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Revenue Cabinet in the manner and form prescribed by regulations issued by the Revenue Cabinet and shall contain plans and specifications of the structure including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Revenue Cabinet for the proper administration of this section.[~~ The Governor's Office for Coal and Energy Policy shall provide technical assistance and factual information as requested in writing by the Revenue Cabinet~~]. If the Revenue Cabinet finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the issuance or denial of a fluidized bed combustion technology tax exemption certificate, the Revenue Cabinet [~~shall give notice in writing by mail to the special assistant to the Governor for coal and energy policy and shall~~] afford to the applicant [~~and to the special assistant to the Governor for coal and energy policy~~] an opportunity for a hearing. The hearing shall take place within sixty (60) days following notification. The [~~special assistant to the Governor for coal and energy policy along with the~~]applicant shall be notified of the hearing at least two (2) weeks prior to the hearing. On like notice and opportunity for a hearing, the Revenue Cabinet shall on its own initiative revoke the certificate when any of the following appears:

- (a) The certificate was obtained by fraud or misrepresentation;
- (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or
- (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of generating energy.

(3) If the circumstances so require, the Revenue Cabinet, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the Revenue Cabinet revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant[~~ and the notice of the issuance in the form of certified copies thereof shall be sent to the special assistant to the Governor for coal and energy policy~~]. Notice of an order of the Revenue Cabinet denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder[~~ and shall be sent to the special assistant to the Governor for coal and energy policy. The applicant or holder and the special assistant to the Governor for coal and energy policy shall be deemed parties for the purposes of the review afforded by subsection (6) of this section~~].

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Revenue Cabinet to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Revenue Cabinet.

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the [~~special assistant to the Governor for coal and energy policy and the~~] Revenue Cabinet.

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of ***eight (8)***[~~ five (5)~~] years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the ***eight (8)***[~~five (5)~~]year certificate period.

Floor Amendment No. 1 to the Committee Substitute to **SB 171**, by Representative Butler:

On page 8, line 2, after "***than***" and before the period "***.***" delete "***July 1, 1995***" and insert in lieu thereof "***January 1, 1996***"; and

On page 8, line 7 after the word "***After***" and before the comma "***,***" delete "***July 1, 1995***" and insert in lieu thereof "***January 1, 1996***".

Floor Title Amendment to **SB 170**, by Representative Lewis:

AN ACT relating to public health.

Orders of the Day (Continued)

SB 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 100** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 25 , 1994 roll call on **SB 100** - Appendix)

SB 100 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **SB 100** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 303 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 303** be passed.

On the roll call the vote was: Yeas 81, Nays 0. (See March 25 , 1994 roll call on **SB 303** - Appendix)

SB 303 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 303** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 68, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SJR 68** be adopted.

On the roll call the vote was: Yeas 83, Nays 0. (See March 25 , 1994 roll call on **SJR 68** - Appendix)

SJR 68 was adopted.

Representative Lear moved that the vote by which **SJR 68** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 271, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **SB 271**. Agreed.

Representative Cyrus moved that **SB 271**, by way of Committee Substitute, be passed.

Representative Brown moved the adoption of Floor Amendment No. 1 to **SB 271**.

Representative Farrow inquired if Floor Amendment No. 1 was germane to **SB 271** and if a fiscal impact statement was required on Floor Amendment No. 1.

The Speaker ruled that Floor Amendment No. 1 was germane to **SB 271** and that Floor Amendment No. 1 does require a fiscal impact statement.

Representative Farrow moved that a fiscal impact statement be attached to Floor Amendment No. 1 to **SB 271** in accordance with House Rule 52.

On the roll call for a fiscal impact statement on Floor Amendment No. 1 to **SB 271**, the vote was **Yeas 51**–Adams, Allen, Altman, Arnold, Bowling, Bryant, Buis, Burch, Cave, Clarke, Coleman, Crenshaw, Curd, Damron, DeWeese, Farrow, Ford, Gee, Geveden, Graham, Hampton, Hancock, Jensen, Keith, Lear, Lee, LeMaster, Lindsay, Long, Maricle, Mason, Moberly, Mullinix, Napier, Northup, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Scorsone, Scott, B. Smith, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Zimmerman. **Nays 41**–Ackerson, Adkins, Ballard, Bentley, Bondurant, Brown, Bruce, Butler, Callahan, L. Clark, P. Clark, Collins, Cyrus, Deskins, Donnermeyer, French, Gedling, Gray, Hatcher, Heleringer, Johnson, Kerr, Lewis, Lile, Lyne, Maggard, Marzian, Morris, Nelson, Nesler, Reinhardt, Riggs, Riner, Sanders, Shacklette, Simpson, Stacy, Stengel, Wayne, Worthington, Yates.

The motion that a fiscal impact statement be attached to Floor Amendment No. 1 to **SB 271** was adopted.

Representative Stumbo moved that **SB 271** retain its place in the Orders of the Day. Agreed.

Representative Stumbo moved the adoption of **HR 85**.

HR 85 was adopted by voice vote.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 41, HB 64, HB 84, HB 95, HB 115, HB 183, HB 191, HB 211, HB 225, HB 239, HB 315, HB 336, HB 357, HB 377, HB 386, HB 387, HB 490, HB 501, HB 538, HB 546, HB 558, HB 591, HB 652, HB 645, HB 719, HB 776** and **HJR 23** have been examined and found correctly enrolled . Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:35 a.m.)

HB 41, HB 64, HB 84, HB 95, HB 115, HB 183, HB 191, HB 211, HB 225, HB 239, HB 315, HB 336, HB 357, HB 377, HB 386, HB 387, HB 490, HB 501, HB 538, HB 546, HB 558, HB 591, HB 652, HB 645, HB 719, HB 776 and **HJR 23** delivered to the Senate and signed by the President. Delivered to the Governor on March 25, 1994 at 12:05 p.m.

Orders of the Day (Continued)

SB 320 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **SB 320** be passed.

On the roll call the vote was: Yeas 73, Nays 0. (See March 25 , 1994 roll call on **SB 320** - Appendix)

SB 320 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 320** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the adoption of **HR 107**.

HR 107 was adopted by voice vote.

SB 80, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Amendment No. 1 to **SB 80**. Agreed.

Representative Hancock moved that **SB 80**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See March 25, 1994 roll call on **SB 80** - Appendix)

SB 80, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **SB 80**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 245, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to **SB 245**. Agreed.

Representative Rapier moved that **SB 245**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See March 25, 1994 roll call on **SB 245** - Appendix)

SB 245, by way of Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which **SB 245**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 81, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Committee Amendment No. 1 to **SB 81**.

On the roll call to adopt Committee Amendment No. 1 to **SB 81**, the vote was **Yeas 65**--Adams, Altman, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Cave, L. Clark, Clarke, Coleman, Curd, Cyrus, Damron, DeWeese, Donnermeyer, Gedling, Geveden, Graham, Gray, Hampton, Hancock, Hatcher, Heleringer, Johnson, Keith, Kerr, Lee, Lewis, Lile, Lyne, Maggard, Maricle, Marzian, Morris, Mullinix, Nelson, Nesler, Noland, Palumbo, Rapier, Rasche, Reinhardt, Richards, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stengel, Stumbo, Trapp, Treesh, Turner, Worthington, Yates, Zimmerman. **Nays 1**--Lindsay.

Committee Amendment No. 1 to **SB 81** was adopted.

Representative Donnermeyer moved the adoption of Floor Amendment No. 3 to **SB 81**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 2 to **SB 81**. Rejected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **SB 81**,

Representative Bowling stated that no fiscal impact statement was attached according to Rule 52.

Representative Bowling moved that Floor Amendment No. 1 to **SB 81** be laid on the table.

Representative Bowling moved that the motion that Floor Amendment No. 1 to **SB 81** be laid on the table be withdrawn.

Representative Damron moved the adoption of Floor Amendment No. 1 to **SB 81**.

On the roll call to adopt Floor Amendment No. 1 to **SB 81**, the vote was **Yeas 42**--Adams, Adkins, Altman, Ballard, Barrows, Brown, Bruce, Bryant, Buis, Burch, P. Clark, Cyrus, Damron, Deskins, Farley, Ford, French, Gee, Heleringer, Jensen, Lewis, Maggard, Maricle, Mason, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Riggs, Sanders, B. Smith, Stacy, Stengel, Stumbo, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 41**--Allen, Bondurant, Bowling, Butler, Cave, L. Clark, Clarke, Coleman, Collins, Curd, DeWeese, Donnermeyer, Farrow, Geveden, Graham, Gray, Hampton, Hancock, Hatcher, Johnson, Keith, Kerr, Lear, Lee, Lindsay, Long, Marzian, Northup, Nunn, Rapier, Rasche, Richards, Riner, Scorsone, Scott, Shacklette, Simpson, Todd, Trapp, Wayne, Yates.

Floor Amendment No. 1 to **SB 81** was adopted.

Representative Curd moved that **SB 81**, as amended, be passed.

Representative Johnson moved that **SB 81** be laid on the Clerk's Desk. Rejected.

On the roll call on the passage of **SB 81**, as amended, the vote was: Yeas 85, Nays 5. (See March 25, 1994 roll call on **SB 81**- Appendix)

SB 81, as amended, was passed and the title agreed to.

SB 238, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of Floor Amendment No. 1 to **SB 238**. Agreed.

Representative Curd moved the adoption of Committee Amendment No. 1 to **SB 238**.

On the roll call to adopt Committee Amendment No. 1 to **SB 238**, the vote was **Yeas 88**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Long, Lyne, Maggard, Maricle, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Rapier, Rasche, Reinhardt, Richards, Riggs, Riner, Sanders, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 0**.

Committee Amendment No. 1 to **SB 238** was adopted.

Representative Rapier moved the adoption of Floor Amendment No. 3 to **SB 238**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 5 to **SB 238**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 4 to **SB 238**.

On the roll call to adopt Floor Amendment No. 4 to **SB 238**, the vote was **Yeas 55**--Adkins, Allen, Altman, Arnold, Bondurant, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, P. Clark, Collins, Cyrus, Damron, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Graham, Hampton, Hatcher, Heleringer, Johnson, Keith, Kerr, Lee, Lewis, Lile, Lindsay, Maricle, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Nunn, Reinhardt, Richards, Riner, Sanders, Scott, B. Smith, Stacy, Todd, Treesh, Turner, Walton, Worthington, Yates, Zimmerman. **Nays 34**--Ackerson, Adams, Ballard, Barrows, Bentley, Bowling, Brown, L. Clark, Clarke, Coleman, Curd, Deskins, DeWeese, French, Geveden, Gray, Hancock, Lear, LeMaster, Long, Maggard, Marzian, Moberly, Northup, Rapier, Rasche, Riggs, Scorsone, Shacklette, Simpson, Stengel, Stumbo, Trapp, Wayne.

Floor Amendment No. 4 to **SB 238** was adopted.

Representative Rasche moved that **SB 238**, as amended, be passed.

Representative Nesler moved the adoption of Floor Amendment No. 2 to **SB 238**.

Representative Long inquired if a no fiscal impact statement was not attached, if Floor Amendment No. 2 to **SB 238** could be ruled out of order.

The Speaker ruled that the Chair could not rule Floor Amendment No. 2 to **SB 238** out of order because a fiscal impact statement was not attached.

Representative Long moved that a fiscal impact statement be required on Floor Amendment No. 2 to **SB 238** by a vote of the members.

Representative Reinhardt inquired if House Rules 61 and 62 allow the Speaker to rule on the need for a fiscal impact statement on the motion that a fiscal impact statement was needed on Floor Amendment No. 2 to **SB 238**.

The Speaker ruled that, according to House Rule 52, House members, by majority vote, may require that a fiscal statement be attached to the amendment.

Representative Rapier inquired if Floor Amendment No. 2 was germane to **SB 238**.

The Speaker ruled that Floor Amendment No. 2 was not germane to **SB 238**.

Representative Rasche moved that **SB 238**, as amended, be passed.

Representative Riner moved the adoption of Floor Amendment No. 6 to **SB 238**.

Representative Farrow inquired if Floor Amendment No. 6 was germane to **SB 238**.

The Speaker ruled that Floor Amendment No. 6 was not germane to **SB 238**.

On the roll call on the passage of **SB 238**, as amended, the vote was: Yeas 69, Nays 17. (See , 1993 roll call on **SB 238** - Appendix)

SB 238, as amended, was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 238**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendment (Continued)

Floor Amendment No. 6 to **SB 316**, by Representative Gedling:

On page 1, after line 24, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

"*As used in Sections 2 to 9 of this Act unless the context otherwise requires:*

(1) "Department" means the Department of Agriculture;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without the Commonwealth;

(3) "Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid;

(4) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(5) "Sub-jobber" means any person who purchases cigarettes on which the Kentucky cigarette tax has been paid from a wholesaler licensed pursuant to KRS 138.195 and makes the cigarettes available to a retailer for resale; and

(6) "Tobacco product" means any product that contains tobacco and is intended for human consumption.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Sub-jobbers who provide tobacco products to retailers shall report the name and address of each retailer to the department or its agent in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each person engaged in the business of selling tobacco products at retail shall notify each individual employed by that person as a retail sales clerk of the following requirements of the laws of the Commonwealth:

(a) The sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited by law; and

(b) Proof of age shall be demanded from a prospective purchaser of a tobacco product if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of the effective date of this section. The person shall signify receipt of the notice required by this section by signing a form that states as follows: "I understand that the law of the Commonwealth of Kentucky prohibits the sale of tobacco products to persons under the age of eighteen (18) years, and requires that proof of age be demanded from a prospective purchaser of tobacco products if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years. I promise, as a condition of employment, to observe this law."

(3) Any person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the department using a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The department shall enforce KRS 438.045 and KRS 365.395 in a manner that may reasonably be expected to reduce the extent to which tobacco products are sold or distributed to persons under the age of eighteen (18) years, regardless of whether the products are sold at retail, over the counter, or through vending machines, and shall annually conduct random, unannounced inspections of locations where tobacco products are sold or distributed to ensure compliance with KRS 438.045 and KRS 365.395. The inspections shall be conducted in those locations where, and at times when, persons under the age of eighteen (18) years are most likely to attempt to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with KRS 438.045 and KRS 365.395 only if the testing is conducted under the direct supervision of the department, a sheriff, or a chief of police, or their employees, and written parental consent has been obtained. The enforcement division of the department shall prepare annually for submission by the Governor to the Secretary of the United States Department of Health and Human Services the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Fines collected pursuant to KRS 438.045, KRS 365.395, and Section 4 of this Act, shall be used to offset the costs of enforcement of KRS 438.045, KRS 365.395, and Section 4 of this Act.

Section 7. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18) ***years***, or knowingly solicit any person under the age of eighteen (18) ***years*** to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under ***the*** age eighteen (18) ***years***.

(3) ***Any person who sells tobacco products at retail shall ask the prospective purchaser for proof of age if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.***

(4) A person who violates subsection (1)***,*** [~~or~~] (2)***, or (3)*** of this section shall be subject to a fine of not less than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] nor more than ***two hundred*** fifty dollars ***($250)***($50) for ***each***[~~a first~~] violation [~~and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation~~].

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that KRS 438.045, KRS 365.395, and Section 4 of this Act shall be enforced in an equitable and uniform manner throughout the Commonwealth. For the purpose of equitable and uniform enforcement, the provisions of Sections 2 to 9 of this Act shall supersede any existing or subsequently enacted local law, ordinance, or administrative regulation which relates to the use, sale, or distribution of tobacco products. It is the intent of the General Assembly that Sections 2 to 9 of this Act be enforced so as to ensure the eligibility for and receipt of any federal funds or grants that the Commonwealth of Kentucky now receives or may receive relating to the provisions of Sections 2 to 9 of this Act.

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or ***other*** tobacco products may ***distribute***[~~provide~~] cigarettes or ***other*** tobacco products or samples thereof [~~free of charge~~] to any person under the age of eighteen (18) ***years; however, it shall not be unlawful to distribute cigarettes or other tobacco products to a family member or a personal acquaintance for noncommercial purposes, or to an employee when required in the performance of the employee's duties.***

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred***[~~twenty five~~] dollars ***($100)***[~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)***[~~($100)~~] for each offense. ***The fine shall be administered by the department or its agent using a civil enforcement procedure.***".

Motions, Petitions and Communications

Representative Stumbo announced a meeting of the Committee on Rules upon Recess.

Representative Stumbo announced that when the House adjourns this day, it does so until 2:00 p.m., Monday, March 28, 1994.

Representative Stumbo announced that the Floor would remain open for Amendments.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day for March 28, 1994: **SB 361**

The Committee on Rules reported that **SB 170, SB 287, SB 316, SB 351, SB 246, SB 277, SB 305, SB 367, SB 164, SB 55, SB 213, SB 222, SB 232, SB 270, SB 278, SB 284, SB 297, SB 308, SB 319, SB 331** and **SB 337** have been posted for passage in the Orders of the Day for March 28, 1994.

Introduction of Bills and Resolutions (Continued)

HR 113, by Representatives Wayne, L. Clark, Shacklette, P. Clark, Gray, Hatcher, Lile, Marzian, Riggs, Heleringer, Butler, DeWeese, Riner, Richards, Northup, Burch and Yates: A RESOLUTION urging Congress to rename the New Federal Building at 600 Federal Place in Louisville, in honor of United States Representative Romano Mazzoli.

Motions, Petitions and Communications (Continued)

Representative Farrow moved the adoption of the following **Legislative Citation No. 140**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Jim Reid Georgetown College in recognition of his award as NAIA Division 1 Men's Coach Of The Year for the outstanding leadership and guidance provided to the Georgetown College "Tigers" Basketball Team. For the commitment to the sterling qualities of competitive spirit and team play have resulted in your recognition as the 1994 NAIA Coach Of The Year and the NAIA's winningest coach in Kentucky. This prestigious body recognizes the exemplary coaching abilities of Jim Reid and extends its best wishes for continued success in future endeavors.

Representative Treesh moved the adoption of the following **Legislative Citation No. 136**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Donna O'Reilly Teague in recognition of having passed all parts of the CPA examination. Receiving the Kentucky Society Award for earning the highest scores in Kentucky and the Elijah Watt Sells Award for Performance With High Distinction for placing in the top 100 category in the nation is testament to your desire to fulfill a goal and to be all that one can be. Congratulations, Donna, on your remarkable achievements. The entire membership joins Representative Mark Treesh in extending its very best wishes on this memorable occasion.

Representative Coleman moved the adoption of the following **Legislative Citation No. 137**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the

Program Review and Investigations Committee Staff in recognition of their dedication, professionalism and efforts in conducting an effective and productive evaluation of the Kentucky Medicaid system. The evaluation revealed information that led to House Bill 127, strengthening the Medicaid program and providing deterrents to fraud and abuse of the program. The entire membership extends its very best wishes on this occasion and expresses the hope for continued success.

Representative Coleman moved the adoption of the following **Legislative Citation No. 138**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Health and Welfare Committee Staff in recognition of their dedication, professionalism and efforts in conducting an effective and productive evaluation of the Kentucky Medicaid system. The evaluation revealed information that led to House Bill 127, strengthening the Medicaid program and providing deterrents to fraud and abuse of the program. The entire membership extends its very best wishes on this occasion and expresses the hope for continued success.

Representative Coleman moved the adoption of the following **Legislative Citation No. 139**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Rick Gibson for your efforts in Legislation and addressing the Medicaid fraud issues. Your legal insight and guidance on some of the most stringent Legislation in the nation that passed in the Commonwealth is notable. The entire membership joins Representative Jack Coleman in extends its very best wishes on this occasion.

Representative Burch moved the adoption of the following **Legislative Citation No. 53**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby salutes Coach Denny Crum, University Of Louisville "Cardinals Basketball Team". Your renowned coaching genius earned you a place in the Basketball Hall of Fame and in history. The discipline, energy and time you share with the "Cardinals Basketball Team" have been outstanding. The House of Representatives joins with Representative Tom Burch in honoring you on your election to the Basketball Hall of Fame and wishes you every success.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 331**, by Representative Palumbo:

On page 1, after line 14, by inserting the following:

"Section 2. The Legislative Research Commission shall conduct a study of pay equity discrimination due to gender in state employment under the merit system. Specific tasks to be undertaken include the following:

(1) Describing or identifying:

(a) The current criteria utilized in the job evaluation and classification process, particularly noting any factors which may either impede or promote the goal of pay equity;

(b) The progress, if any, that has been made in both reducing the average pay differential between men and women, and in the decline of sex-stereotyped job classes (those held predominantly and traditionally by women);

(c) Whether merit pay increases for women have achieved parity with those of men when their shares of total state employment are considered;

(d) Trends in formal complaints of pay equity discrimination in state employment; and

(e) Any statutory, regulatory, or administrative barriers which impede enforcement of existing laws which require pay equity.

(2) Providing recommendations concerning:

(a) Any changes in job evaluation or classification criteria which may better promote achievement of pay equity;

(b) A strategy, or action options, which could be undertaken by the Executive Branch to eliminate any pay equity disparities; and

(c) Any statutory changes which may be needed to attain pay equity or to rectify any cases of pay discrimination.

Section 3. The Department of Personnel shall render assistance as required to complete this research.

Section 4. This report shall be completed by no later than August 3, 1995.

Section 5. This report shall be submitted to the Legislative Research Commission no later than August 3, 1995.".

Floor Amendment No. 1 to the Committee Substitute to **SB 55**, by Representative Palumbo:

On page 2, after line 11, by inserting the following:

"Section 3. KRS 513.010 is amended to read as follows:

The following ***definitions apply*** [~~definition applies~~] in this chapter unless the context otherwise requires:

(1) "Building," in addition to its ordinary meaning, specifically includes any dwelling, hotel, commercial structure, automobile, truck, watercraft, aircraft, trailer, sleeping car, railroad car, or other structure or vehicle, or any structure with a valid certificate of occupancy.

(2) "Damage" means any structural damage, as well as damage that lowers the value of the building or that impairs its usefulness.

(3) "Inhabited" means, with respect to a building, that a person regularly resides in the building whether or not the person is present at the time of the offense.

(4) "Occupied" means, with respect to a building, that a person is physically present in the building at the time of the offense.

Section 4. KRS 513.020 is amended to read as follows:

(1) A person is guilty of arson in the first degree when, with intent to destroy or damage a building, he starts a fire or causes an explosion, and [~~;~~]

(a) The building is inhabited or occupied or the person has reason to believe the building may be inhabited or occupied; ***and*** [~~or~~]

(b) Any other person***, not a participant in the crime,*** sustains serious physical injury as a result***, including those responding to the fire or explosion or fighting the fire or explosion*** [~~of the fire or explosion or the firefighting as a result thereof~~].

(2) Arson in the first degree is a Class A felony.

Section 5. KRS 513.030 is amended to read as follows:

(1) A person is guilty of arson in the second degree when***, with intent to destroy or damage a building,*** he starts a fire or causes an explosion ***and***

(a) The building is inhabited or occupied or the person has reason to believe the building is inhabited or occupied; or

(b) Any other person, not a participant in the crime sustains physical injury as a result, including those responding to the fire or explosion or fighting the fire of explosion, or [~~with intent to destroy or damage a building:~~]

(c) [~~(a)~~] Of another; or

(d) [~~(b)~~] Of his own or of another, to collect or facilitate the collection of insurance proceeds for such loss.

[~~(2) In any prosecution under this section, it is a defense that:~~

~~(a) No person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to the defendant's conduct; and~~

~~(b) The defendant's sole intent was to destroy or damage the building for a lawful purpose~~].

(2) [~~(3)~~] Arson in the second degree is a Class B felony.

Section 6. KRS 513.040 is amended to read as follows:

(1) A person is guilty of arson in the third degree ***when*** [~~if~~] he ***starts*** [~~wantonly causes destruction or damage to a building of his own or of another by intentionally starting~~] a fire or ***causes*** [~~causing~~] an explosion ***with intent to destroy or damage a building of another***.

(2) In any prosecution under this section, it is a defense that***:***

(a) No person other than the defendant ***has*** [~~had~~] a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to ***the*** defendant's conduct***;***

(b) The defendant's sole intent was to destroy or damage the building for a lawful purpose; and

(c) The defendant notified the fire department having jurisdiction prior to burning.

(3) Arson in the third degree is a Class ***C*** [~~D~~] felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 513 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of arson in the fourth degree if:

(a) He wantonly causes destruction or damage to a building of his own or another by intentionally starting a fire or causing an explosion; or

(b) He intentionally sets fire or causes an explosion which damages or destroys property other than a building which results in a fire or police official responding to the fire or explosion.

(2) In any prosecution under this section, it is a defense that:

(a) No person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to defendant's conduct;

(b) The defendant's sole intent was to destroy or damage the building for a lawful purpose; and

(c) The defendant notified the fire department having jurisdiction prior to burning.

(3) Arson in the fourth degree is a Class D felony.

Section 8. KRS 513.060 is amended to read as follows:

(1) A person is guilty of burning personal property to defraud an insurer when, with intent to defraud or injure an insurer, he:

(a) Sets fire to, burns, or causes to be burned ***the goods, wares, merchandise, or other personal property of himself or another*** [~~; or~~]

(b) Aids, counsels, or procures the burning of any of the goods, wares, merchandise, or other personal property of himself or another***; and*** [~~, that~~]

(c) The burned or damaged property is insured at the time against loss or damage by fire.

(2) Burning personal property to defraud an insurer is a Class D felony."

Floor Amendment No. 1 to **SB 72**, by Representative Burch:

On page 1, by inserting after the enacting clause the following new sections:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 and Section 9 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by

this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 1 to 8 and Section 9 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet in a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 1 to 8 and Section 9 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 1 to 8 and Section 9 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 1 to 8 and Section 9 of this Act. Each local health department or district health department that agrees to enforce Sections 1 to 8 and Section 9 of this Act, shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 1 to 8 and Section 9 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 1 to 8 and Section 9 of this Act.

Section 8. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or knowingly solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation. *The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.*

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may *distribute* [~~provide~~] cigarettes or tobacco products*, including* [~~or~~] samples thereof*,* free of charge *or otherwise,* to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25)~~] nor more than *two hundred fifty* [~~one hundred~~] dollars *($250)* [~~($100)~~] for each offense. *The fine shall be administered by the Cabinet for Human Resources or its agent using a civil enforcement procedure.*".

Floor Amendment No. 2 to **SB 72**, by Representative Burch:

On page 1, by deleting everything after the enacting clause.

Floor Title Amendment to **SB 72**, by Representative Burch:

On page 1, TITLE, by amending the title to read as follows:
"AN ACT relating to the control of children's access to tobacco products."

Motions, Petitions and Communications (Continued)

Representative Bruce moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that he be recorded as voting "nay" on **HB 183**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Riggs moved that he be recorded as voting "nay" on **HB 183** and **SB 180**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 191, HCR 108, SB 153, SB 157, SB 205, SB 225, SB 247, SB 266** and **SB 268**. Agreed.

Representative Hancock moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hancock moved that his vote be changed from "yea" to "nay" on **SB 185**. Agreed.

Representative Hancock moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hancock moved that his vote be changed from "yea" to "abstain" on **HB 183**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 1 to **SB 205**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that he be recorded as voting "nay" on **HB 183**. Agreed.

Representative Cave moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cave moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Cave moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cave moved that he be recorded as voting "yea" on **SB 185**. Agreed.

Representative Worthington moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Worthington moved that he be recorded as voting "yea" on **SB 92, SB 112, SB 132, SB 133, SB 136, SB 153, SB 157, SB 180, SB 205, SB 225, SB 243, SB 247, SB 266, SB 268, SB 307, HB 41, HB 64, HB 84, HB 95, HB 115, HB 191, HB 211, HB 225, HB 239, HB 282, HB 315, HB 387, HB 546, HB 558, HR 92** and **HR 106**. Agreed.

Representative Stumbo moved that no further business be conducted on this day. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., Monday, March 28, 1994. Agreed.

Recess

Representative Stumbo moved that the House recess . Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **SB 222**, by Representative Palumbo:

On page 7, after line 7, by inserting the following:

"Section 4. (1) The Legislative Research Commission shall appoint a Task Force to study the involuntary psychiatric commitment of adults and children with a mental illness.

(2) The Task Force on Involuntary Psychiatric Commitment shall be composed of the following members:

(a) One (1) representative nominated by ATAK-MI;

(b) One (1) representative nominated by the Kentucky Alliance for the Mentally Ill;

(c) The director of the Office of Consumer Advocacy, Department for Mental Health and Mental Retardation Services;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services or the commissioner's designee;

(e) The commissioner of the Department for Social Services or the commissioner's designee;

(f) The commissioner of the Department of Corrections or the commissioner's designee;

(g) The commissioner of the Department of Public Advocacy or the commissioner's designee;

(h) One (1) director of a state psychiatric hospital;

(i) The director of the Kentucky Correctional Psychiatric Center;

(j) One (1) representative from the Office of Protection and Advocacy, Department of Public Advocacy;

(k) One (1) representative from Kentucky Youth Advocates;

(l) One (1) probation/parole officer;

(m) One (1) court designated worker;

(n) One (1) representative from the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(o) One (1) licensed psychiatrist nominated by the Kentucky Psychiatric Association;

(p) One (1) licensed or certified psychologist or psychological associate nominated by the Kentucky Psychological Association;

(q) One (1) licensed clinical social worker nominated by the Kentucky Clinical Society of Social Work;

(r) One (1) licensed registered nurse practicing psychiatric nursing nominated by the Kentucky Nurses Association;

(s) One (1) representative from the Department of Psychiatry, University of Kentucky;

(t) One (1) representative from the Department of Psychiatry, University of Louisville;

(u) One (1) representative each from a list of five (5) nominees submitted by each of the following organizations:

1. The County Attorneys Association;

2. The Commonwealth Attorneys Association;

3. The Circuit Judges Association;

4. The District Judges Association;

5. The Kentucky Sheriffs Association;

6. The Kentucky Jailers Association;

(v) Four (4) members of the Kentucky General Assembly, two (2) representing the Interim Joint Committee on Health and Welfare, and two (2) representing the Interim Joint Committee on the Judiciary;

(w) One (1) victim of crime or family member of a victim of a crime related to the issues to be studied by the Task Force.

(3) The Task Force on Involuntary Psychiatric Commitment shall study the following subjects:

(a) The involuntary commitment proceedings set forth in KRS 202A, KRS 504, and KRS 645 and any needed revisions, including but not limited to involuntary commitment criteria, admission and release procedures, and outpatient commitment provisions;

(b) The advisability of implementing a Psychiatric Security Review Board;

(c) Informed consent and due process procedures, including the use of medications;

(d) The availability of mental health services within the prison system for persons with a severe mental illness who have been convicted of criminal offenses;

(e) The notification of crime victims upon the release of persons from psychiatric or correctional facilities;

(f) The adequacy of funding for the mental health system serving children and adults in Kentucky.

(4) The two (2) legislative members shall serve as co-chairs of the Task Force on Involuntary Psychiatric Commitment.

(5) The Task Force shall submit findings and recommendations to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Judiciary by August 31, 1995.

(6) Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission."

Floor Title Amendment No. 2 to **SB 72**, by Representative Gedling:

By amending the title to read as follows: "AN ACT relating to the operation of the Cabinet for Human Resources and related health matters."

Floor Amendment No. 3 to **SB 72**, by Representative Gedling:

On page 1, after line 5, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

"*As used in Sections 3 to 10 of this Act unless the context otherwise requires:*

(1) "Department" means the Department of Agriculture;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without the Commonwealth;

(3) "Proof of age" means a driver's license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid;

(4) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(5) "Sub-jobber" means any person who purchases cigarettes on which the Kentucky cigarette tax has been paid from a wholesaler licensed pursuant to KRS 138.195 and makes the cigarettes available to a retailer for resale; and

(6) "Tobacco product" means any product that contains tobacco and is intended for human consumption.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Sub-jobbers who provide tobacco products to retailers shall report the name and address of each retailer to the department or its agent in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each person engaged in the business of selling tobacco products at retail shall notify each individual employed by that person as a retail sales clerk of the following requirements of the laws of the Commonwealth:

(a) The sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited by law; and

(b) Proof of age shall be demanded from a prospective purchaser of a tobacco product if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of the effective date of this section. The person shall signify receipt of the notice required by this section by signing a form that states as follows: "I understand that the law of the Commonwealth of Kentucky prohibits the sale of tobacco products to persons under the age of eighteen (18) years, and requires that proof of age be demanded from a prospective purchaser of tobacco products if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years. I promise, as a condition of employment, to observe this law."

(3) Any person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the department using a civil enforcement procedure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The department shall enforce KRS 438.045 and KRS 365.395 in a manner that may reasonably be expected to reduce the extent to which tobacco products are sold or distributed to persons under the age of eighteen (18) years, regardless of whether the products are sold at retail, over the counter, or through vending machines, and shall annually conduct random, unannounced inspections of locations where tobacco products are sold or distributed to ensure compliance with KRS 438.045 and KRS 365.395. The inspections shall be conducted in those locations where, and at times when, persons under the age of eighteen (18) years are most likely to attempt to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with KRS 438.045 and KRS 365.395 only if the testing is conducted under the direct supervision of the department, a sheriff, or a chief of police, or their employees, and written parental consent has been obtained. The enforcement division of the department shall prepare annually for submission by the Governor to the Secretary of the United States Department of Health and Human Services the report required by Section 1926, of Subpart 1 of Part B of Title XIX, Public Health Service Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Fines collected pursuant to KRS 438.045, KRS 365.395, and Section 5 of this Act, shall be used to offset the costs of enforcement of KRS 438.045, KRS 365.395, and Section 5 of this Act.

Section 8. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18) ***years***, or knowingly solicit any person under the age of eighteen (18) ***years*** to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under ***the*** age eighteen (18) ***years***.

(3) ***Any person who sells tobacco products at retail shall ask the prospective purchaser for proof of age if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under the age of eighteen (18) years.***

(4) A person who violates subsection (1)***,*** [~~or~~] (2)***, or (3)*** of this section shall be subject to a fine of not less than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] nor more than ***two hundred*** fifty dollars ***($250)***($50) for ***each***[~~a first~~] violation [~~and a fine of not less than twenty five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation~~].

SECTION 9. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that KRS 438.045, KRS 365.395, and Section 5 of this Act shall be enforced in an equitable and uniform manner throughout the Commonwealth. For the purpose of equitable and uniform enforcement, the provisions of Sections 3 to 10 of this Act shall supersede any existing or subsequently enacted local law, ordinance, or administrative regulation which relates to the use, sale, or distribution of tobacco products. It is the intent of the General Assembly that Sections 3 to 10 of this Act be enforced so as to ensure the eligibility for and receipt of any federal funds or grants that the Commonwealth of Kentucky now receives or may receive relating to the provisions of Sections 3 to 10 of this Act.

Section 10. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or ***other*** tobacco products may ***distribute***[~~provide~~] cigarettes or ***other*** tobacco products or samples thereof [~~free of charge~~] to any person under the age of eighteen (18) ***years; however, it shall not be unlawful to distribute cigarettes or other tobacco products to a family member or a personal acquaintance for noncommercial purposes, or to an employee when required in the performance of the employee's duties.***

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred***[~~twenty five~~] dollars ***($100)***[~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)***[~~($100)~~] for each offense. ***The fine shall be administered by the department or its agent using a civil enforcement procedure.***".

Floor Title Amendment to the Committee Substitute to **SB 277**, by Representative Treesh:

By amending the title to read as follows: "AN ACT relating to organizing state government interagency relationships and services provided to the public."

Floor Amendment No. 3 to the Committee Substitute to **SB 277**, by Representative Treesh:

On page 63 after line 27 by adding the following:

"Section 49. KRS 246.070 is amended to read as follows:

(1) The Commissioner shall promote and encourage, as far as practicable, the organization of agricultural and horticultural societies and other associations and ascertain the agricultural, horticultural, mechanical, commercial and educational condition of every county. He shall ascertain in detail the quality and quantity of land under cultivation; the kinds, amounts and value of the annual field crops; the annual production of orchards, gardens, dairies and mines; the quantity and value of domestic manufactures; the kinds, value and increase of livestock; the annual products of mechanical industry and skill; the character and wages of labor employed in mines, factories and the cultivation of the soil; the value of exports and imports; the number of miles and names of railroads, navigable streams and post offices in each county; how and by whom public roads are operated and kept in repair; the name, location and population of cities and villages; the number and value of school houses and churches; the names, capital and purposes of charitable institutions, and such other vital, social, physical and political statistics as he may deem proper and expedient.

(2) The Commissioner may, if he thinks it will promote the objects of the department, expend such sums as are available in:

(a) The payment of premiums ***and grants*** that he offers to encourage the agricultural industry of the state;

(b) The distribution of seeds that the United States government desires to introduce into this state;

(c) The purchase, importation and exchange of any seeds that he deems of value to the agricultural interests of the state; and

(d) The analyzation of soils in different parts of the state in the interest of agriculture."

Floor Amendment No. 1 to **SB 348**, by Representative Adkins:

On page 2, line 15, by placing an opening bracket in from of "ELLIOTT" and by striking through line 15; and

On page 2, by striking through lines 16 through 18 and by placing a closing bracket on line 18 after "NO. 5"; and

On page 2, line 21, by placing an opening bracket in front of "A101" and by striking through "A101 SALYERSVILLE WARD #2"; and

On page 2, by striking through lines 22 through 27 in their entirety; and

On page 3, by striking through lines 1 and 2, and by placing a closing bracket after "ATKINSON"; and

On page 4, by inserting the following after line 26:

"Section 4. KRS 5.125 is amended to read as follows:

The Twenty-fifth Senatorial District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
BOYD						
ELLIOTT	~~[D101~~		~~MOCASSIN NO. 4~~			
~~ELLIOTT~~	~~F101~~		~~BRUIN NO. 6~~			
~~ELLIOTT~~	~~G101~~		~~ISONVILLE NO. 7~~]			
JOHNSON						
LAWRENCE						
~~[MAGOFFIN~~	~~B102~~		~~STATE ROAD~~			
~~MAGOFFIN~~	~~B103~~		~~IVYTON~~			
~~MAGOFFIN~~	~~B104~~		~~FLAT FORK~~			
~~MAGOFFIN~~	~~B105~~		~~BAYES~~]"			

Floor Amendment No. 7 to **SB 316**, by Representative Northup:

On page 1, By deleting lines 1 thorough 24 in their entirety and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco

products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 1 to 9 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet in a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 1 to 9 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 1 to 9 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, federal Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 1 to 9 of this Act. Each local health department or district health department that agrees to enforce Sections 1 to 9 of this Act, shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 1 to 9 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 1 to 9 of this Act.

Section 8. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or knowingly solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation. ***The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.***

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** [~~provide~~] cigarettes or tobacco products***, including*** [~~or~~] samples thereof***,*** free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)*** [~~($100)~~] for each offense. ***The fine shall be administered by the Cabinet for Human Resources or its agent using a civil enforcement procedure.***".

Floor Title Amendment to **SB 316**, by Representative Northup:

On page 1, TITLE, By amending the title to read as follows:

"AN ACT relating to prohibiting access to tobacco products by minors."

Floor Amendment No. 1 to **SB 213**, by Representative Palumbo:

On page 9, line 13, after the number "6" by inserting the following:

"(1) The Legislative Research Commission shall appoint a Task Force to study the involuntary psychiatric commitment of adults and children with a mental illness.

(2) The Task Force on Involuntary Psychiatric Commitment shall be composed of the following members:

(a) One (1) representative nominated by ATAK-MI;

(b) One (1) representative nominated by the Kentucky Alliance for the Mentally Ill;

(c) The director of the Office of Consumer Advocacy, Department for Mental Health and Mental Retardation Services;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services or the commissioner's designee;

(e) The commissioner of the Department for Social Services or the commissioner's designee;

(f) The commissioner of the Department of Corrections or the commissioner's designee;

(g) The commissioner of the Department of Public Advocacy or the commissioner's designee;

(h) One (1) director of a state psychiatric hospital;

(i) The director of the Kentucky Correctional Psychiatric Center;

(j) One (1) representative from the Office of Protection and Advocacy, Department of Public Advocacy;

(k) One (1) representative from Kentucky Youth Advocates;

(l) One (1) probation/parole officer;

(m) One (1) court designated worker;

(n) One (1) representative from the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(o) One (1) licensed psychiatrist nominated by the Kentucky Psychiatric Association;

(p) One (1) licensed or certified psychologist or psychological associate nominated by the Kentucky Psychological Association;

(q) One (1) licensed clinical social worker nominated by the Kentucky Clinical Society of Social Work;

(r) One (1) licensed registered nurse practicing psychiatric nursing nominated by the Kentucky Nurses Association;

(s) One (1) representative from the Department of Psychiatry, University of Kentucky;

(t) One (1) representative from the Department of Psychiatry, University of Louisville;

(u) One (1) representative each from a list of five (5) nominees submitted by each of the following organizations:

1. The County Attorneys Association;
2. The Commonwealth Attorneys Association;
3. The Circuit Judges Association;
4. The District Judges Association;
5. The Kentucky Sheriffs Association;
6. The Kentucky Jailers Association;

(v) Four (4) members of the Kentucky General Assembly, two (2) representing the Interim Joint Committee on Health and Welfare, and two (2) representing the Interim Joint Committee on the Judiciary;

(w) One (1) victim of crime or family member of a victim of a crime related to the issues to be studied by the Task Force.

Section 7. The Task Force on Involuntary Psychiatric Commitment shall study the following subjects:

(1) The involuntary commitment proceedings set forth in KRS 202A, KRS 504, and KRS 645 and any needed revisions, including but not limited to involuntary commitment criteria, admission and release procedures, and outpatient commitment provisions;

(2) The advisability of implementing a Psychiatric Security Review Board;

(3) Informed consent and due process procedures, including the use of medications;

(4) The availability of mental health services within the prison system for persons with a severe mental illness who have been convicted of criminal offenses;

(5) The notification of crime victims upon the release of persons from psychiatric or correctional facilities;

(6) The adequacy of funding for the mental health system serving children and adults in Kentucky.

Section 8. The two (2) legislative members shall serve as co-chairs of the Task Force on Involuntary Psychiatric Commitment.

Section 9. The Task Force shall submit findings and recommendations to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Judiciary by August 31, 1995.

Section 10. Staff services to be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 11."

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to a Bill and Resolution under rules previously suspended: **HB 96**, Representative Crenshaw; **HR 92**, Representative Barrows.

The following member filed a request to have his name withdrawn as co-sponsor to a Bill under rules previously suspended: **HB 810**, Representative L. Clark.

Floor Amendments (Continued)

Floor Amendment No. 8 to **SB 316**, by Representative Stumbo:

On page 1, following line 24, By inserting the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 10 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 2 to 10 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet in a civil enforcement procedure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 2 to 10 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 2 to 10 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, federal Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 2 to 10 of this Act. Each local health department or district health department that agrees to enforce Sections 2 to 10 of this Act, shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 2 to 10 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 2 to 10 of this Act.

Section 9. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or knowingly solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation. ***The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.***

Section 10. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** [~~provide~~] cigarettes or tobacco products***, including*** [~~or~~] samples thereof***,*** free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)*** [~~($100)~~] for each offense. ***The fine shall be administered by the Cabinet for Human Resources or its agent using a civil enforcement procedure.***".

Floor Amendment No. 9 to **SB 316**, by Representative Northup:

On page 1, line 1, By inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet using a civil enforcement procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the cabinet in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 1 to 9 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) for each violation. The fine shall be administered by the cabinet in a civil enforcement procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall carry out annually-conducted random, unannounced, inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 1 to 9 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The cabinet shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 1 to 9 of this Act only if the testing is conducted under the direct supervision of the cabinet, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The cabinet shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926, of Subpart 1 of Part B of Title XIX, federal Public Health Service Act.

(2) The Cabinet for Human Resources shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet may enter into agreements with local health departments or district health departments to enforce Sections 1 to 9 of this Act. Each local health department or district health department that agrees to enforce Sections 1 to 9 of this Act, shall be entitled to do so in the geographic area that is within that health department's jurisdiction, and shall be entitled to keep ninety percent (90%) of any fines authorized by the cabinet for administration by the cabinet, and the cabinet shall be entitled to the remaining ten percent (10%) of the fines. If a local health department or district health department refuses to enforce the provisions of Sections 1 to 9 of this Act, then the cabinet may designate other of its employees to enforce these provisions. The cabinet shall then be entitled to keep one hundred percent (100%) of the fines which it is authorized to administer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 1 to 9 of this Act.

Section 8. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or knowingly solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation. *The fine shall be administered by the cabinet or its agent using a civil enforcement procedure.*

Section 9. KRS 365.395 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may *distribute* [~~provide~~] cigarettes or tobacco products*, including* [~~or~~] samples thereof*,* free of charge *or otherwise,* to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25)~~] nor more than *two hundred fifty* [~~one hundred~~] dollars *($250)* [~~($100)~~] for each offense. *The fine shall be administered by the Cabinet for Human Resources or its agent using a civil enforcement procedure.*".

Floor Amendment No. 1 to **SB 93**, by Representative Palumbo:

On page 70, by inserting between lines 7 and 8 the following new sections:

"SECTION 39. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

As used in Sections 39 to 43 of this Act, unless the context otherwise requires:

(1) "Competitive work" means work that is performed on a full or part-time basis and for which an individual is compensated consistent with the wage standards provided for in the Fair Labor Standards Act.

(2) "Council" means the State Supported Employment Council created pursuant to Section 40 of this Act.

(3) "Integrated work setting" means job sites where:

- *(a) Ninety percent (90%) of the employees are not disabled; and*
- *(b) An individual with a severe disability interacts on a regular basis, in the performance of work and work related activities, with employees or members of the general public who are not disabled.*

(4) "On-going support services" means the timely provision or coordination of services that are needed to support and maintain an individual with severe disabilities in employment, and designed and delivered based on the individual's stated needs and preferences. This includes coordination or provision of specific services, at or away from the work site, that are needed to obtain and maintain employment.

(5) "Person with a disability" or "person with disabilities" shall have the same meaning as in KRS 210.770.

(6) "Supported employment" means competitive work in an integrated work setting with on-going support services for persons with severe disabilities for whom competitive employment:

- *(a) Has not traditionally occurred; or*
- *(b) Has been interrupted as a result of a severe disability.*

(7) "Supported employment services" shall include, but are not limited to:

- *(a) Development of an individual vocational profile or employment plan;*
- *(b) Job development and negotiation;*
- *(c) Job site training;*
- *(d) The provision or arrangement of transportation;*
- *(e) Purchase of specific employment related supplies, equipment, and services;*
- *(f) On-going follow up support services; and*
- *(g) Non-employment related advocacy services to enhance the quality of life and help the individual maintain employment.*

(8) "Supported employment" shall not include the following employment arrangements:

- *(a) Segregated employment models with physically or socially isolate persons with disabilities from the community; or*
- *(b) Congregate employment models which group individuals with disabilities as a separate enclave or unit within an otherwise integrated setting.*

SECTION 40. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS 151B.190, there is hereby created the State Supported Employment Council to provide supported employment services to persons with severe disabilities.

(2) (a) The State Supported Employment Council shall be composed of eighteen (18) members, four (4) of which shall be ex-officio members. The commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Employment Services, the commissioner of the Department of Vocational Rehabilitation, and the commissioner of the Department of the Blind or their designees shall be ex-officio members.

(b) Fourteen (14) of the members shall be volunteers and shall be appointed by the commissioner of the Department of Vocational Rehabilitation from a list of nominees in the following manner:

1. Two (2) of the appointed members shall represent family members, guardians, or colleagues of persons with disabilities. One (1) member shall be selected from each of two (2) lists containing two (2) nominees submitted by the Kentucky Disabilities Coalition and the Kentucky Alliance for the

Mentally Ill;

2. Six (6) of the appointed members shall be persons with a disability. Three (3) members shall be selected from each of three (3) lists containing two (2) nominees submitted by the Advocates Taking Action Against Mental Illness, the Kentucky Association for Persons with Severe Handicaps, and the Kentucky Head Injury Association. Three (3) members shall be selected from a list of five (5) nominees submitted by the Kentucky Disability Coalition;

3. Two (2) of the appointed members shall represent professionals and providers of supported employment services to persons with disabilities. The nominees shall be selected from a list containing one (1) nominee each submitted by the Kentucky Association for Persons in Supported Employment, the Kentucky Association for Rehabilitation Facilities, and the Kentucky Chapter of the American Association on Mental Retardation. These individuals shall be employed by agencies providing supported employment services as defined in Section 39 of this Act;

4. Three (3) of the appointed members shall represent advocates for persons with disabilities. The members shall be selected from a list containing two (2) nominees, one (1) of which shall be a person with disabilities, submitted by each of the following entities: the Division of Protection and Advocacy and the Kentucky Disability Coalition.

5. One (1) of the appointed members shall represent the business community. The member shall be selected from a list containing one (1) nominee each submitted by the Kentucky Chamber of Commerce and the Kentucky Association for Persons in Supported Employment.

(3) The appointed members may serve on the council for three (3) years. Members may be reappointed for a maximum of two (2) consecutive terms. The commissioner of the Department of Vocational Rehabilitation shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.

(4) The council shall be attached to the Department of Vocational Rehabilitation for administrative purposes. The Department of Vocational Rehabilitation shall provide staff assistance to the council.

(5) The chair of the State Supported Employment Council shall be elected from among the members. A majority of the members shall constitute a quorum.

(6) The State Supported Employment Council shall meet as often as necessary but at least once every quarter.

SECTION 41. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS 151B.190, upon appointment of all members of the State Supported Employment Council, the council shall recommend to the Department of Vocational Rehabilitation a budget and priorities for fund allocations for supported employment services for persons with disabilities in the Commonwealth.

(2) Except as provided in KRS 151B.190, the State Supported Employment Council shall be responsible for:

(a) Disseminating information about supported employment services available under Sections 39 to 43 of this Act;

(b) Reviewing, approving, and recommending expenditures for individual plans for supported employment, subject to the availability of funds, submitted by the consumers, employers, and providers of supported employment services seeking funding from the council;

(c) Identifying areas of the Commonwealth and groups of disabled persons most in need of supported services and developing a strategy for delivering services to those in need;

(d) Promoting new partnerships in funding supported employment services;

(e) Coordinating activities within state government relating to supported employment services;

(f) Directing research into funding of supported employment services in other states;

(g) Analyzing the operation of waiting lists in various areas of the Commonwealth to determine fairer access to individualized services;

(h) Conducting statewide public forums to gather input about supported employment services;

(i) Applying for and accepting any funds or grants from any entity for the purpose of carrying out its responsibilities under Sections 39 to 43 of this Act; and

(j) Supervising the regional supported employment councils created pursuant to Section 42 of this Act.

(3) The provisions of paragraph (b) of subsection (2) of this section shall be effective upon the appointment of the members of the council, and for two (2) years after the effective date of this Act, at which time the provisions of subsection (2) of Section 42 of this Act shall apply.

(4) No individual service plan shall be imposed by the state supported employment council on any person with a disability who objects to the plan.

(5) The council may recommend to the commissioner of the Department of Vocational Rehabilitation necessary administrative regulations pursuant to KRS Chapter 13A to carry out the purposes of Sections 39 to 43 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There are hereby created four (4) regional supported employment councils which shall represent regions established by the Department of Vocational Rehabilitation. Each regional supported employment council shall be composed of fourteen (14) members who shall be volunteers and shall be appointed by the commissioner of the Department of Vocational Rehabilitation. The method of submission of the list of nominees, composition, and the representation of the regional supported employment council shall be the same as for the appointed members of the State Supported Employment Council set forth in Section 40 of this Act.

(2) Except as provided in KRS 151B.190, at the beginning of the third year after the effective date of this Act, and every year thereafter, each regional supported employment council shall review, approve, and recommend expenditures for individual plans for supported employment services submitted by any person with a disability and eligible providers of supported employment services seeking funding from the council.

(3) No individual service plan shall be imposed by a regional supported employment council on any person with a disability who objects to the plan.

SECTION 43. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

Except as provided in KRS 151B.190:

(1) Only a person with a disability who is a resident of Kentucky or whose family or guardian is a resident of Kentucky is eligible for supported employment services. The person may be living with a family member, independently, or be in a congregate setting and be eligible for services.

(2) Any eligible person with a disability who wants to apply for supported employment services may design and request a set of services in the amount, kind, frequency, and duration which is dependent upon the person's individual needs, and is consistent with the definition of supported employment under Section 39 of this Act.

(3) Payments for supported employment services may be made directly to the person with a disability to enable the person to purchase a service, or to the guardian of the person with a disability, or to the local service provider or to any combination of these parties.

And on page 70, by deleting "39" and inserting in lieu thereof "44".

And on page 70, by deleting "40" and inserting in lieu thereof "45".

Floor Amendment No. 1 to the Committee Substitute to **SB 256**, by Representative Riner:

On page 1, line 5, to delete "*156a*" and insert in lieu thereof "*156*"; and

On page 1, lines 14 to 17, to delete the same.

Floor Title Amendment to **HR 97**, by Representative Geveden:

To delete the title and substitute the following:

"A RESOLUTION recommending the designation of communities in greater Louisville, Kentucky as a Federal Urban Empowerment Zone and Enterprise Community and Fulton County, Kentucky in partnership with Missouri and Tennessee communities as a Federal Rural Empowerment Zone and Enterprise Community.

Floor Amendment No. 1 to **HR 97**, by Representative Geveden:

On page 1 after the last WHEREAS clause, to add "; and

WHEREAS, the state and local governments or state chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Agriculture as a Federal Empowerment Zone or Enterprise Community;";

On page 1, line 2, after the word "communities" to add "and Fulton County, Kentucky";

On page 1, line 3, after the word "innercity" to add "and rural";

On page 2, line 1, before the word "communities" to add "Fulton County, Kentucky, and Missouri and Tennessee";

On page 2, line 6, after the word "Development" to add "and the United States Department of Agriculture";

On page 2, line 7, after the word "Kentucky" to add "Fulton County, Kentucky, and appropriate Missouri and Tennessee"; and

On page 2, line 11, after the word "community" to add ", Fulton County, Kentucky, and appropriate jurisdictions in Missouri and Tennessee"

Floor Amendment No. 2 to **SB 214**, by Representative Lewis:

On page 5 after line 5 by adding the following:

Section 6. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean any facility or property, located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the [~~atmospheric~~]fluidized bed combustion technology must constitute the major energy source for the primary operations of the facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the Revenue Cabinet pursuant to KRS 211.392.

Section 7. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Revenue Cabinet in the manner and form prescribed by regulations issued by the Revenue Cabinet and shall contain plans and specifications of the structure including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Revenue Cabinet for the proper administration of this section.[~~ The Governor's Office for Coal and Energy Policy shall provide technical assistance and factual information as requested in writing by the Revenue Cabinet.~~] If the Revenue Cabinet finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the issuance or denial of a fluidized bed combustion technology tax exemption certificate, the Revenue Cabinet shall[~~ give notice in writing by mail to the special assistant to the Governor for coal and energy policy and shall~~] afford to the applicant [~~and to the special assistant to the Governor for coal and energy policy~~] an opportunity for a hearing. The hearing shall take place within sixty (60) days following notification. The [~~special assistant to the Governor for coal and energy policy along with the~~]applicant shall be notified of the hearing at least two (2) weeks prior to the hearing. On like notice and opportunity for a hearing, the Revenue Cabinet shall on its own initiative revoke the certificate when any of the following appears:

   (a) The certificate was obtained by fraud or misrepresentation;

   (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or

   (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of generating energy.

(3) If the circumstances so require, the Revenue Cabinet, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the Revenue Cabinet revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant[~~ and the notice of the issuance in the form of certified copies thereof shall be sent to the special assistant to the Governor for coal and energy policy~~]. Notice of an order of the Revenue Cabinet denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder[~~ and shall be sent to the special assistant to the Governor for coal and energy policy. The applicant or holder and the special assistant to the Governor for coal and energy policy shall be deemed parties for the purposes of the review afforded by subsection (6) of this section~~].

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Revenue Cabinet to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Revenue Cabinet.

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the [~~special assistant to the Governor for coal and energy policy and the~~] Revenue Cabinet.

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes

outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of ***eight (8)***[~~five (5)~~] years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the ***eight (8)***[~~five (5)~~]year certificate period.

Floor Title Amendment to **SB 256**, by Representative Noland:

Delete title and insert in lieu thereof "AN ACT proposing to amend the Constitution of Kentucky relative to local government."

Floor Amendment No. 2 to the Committee Substitute to **SB 256**, by Representative Noland:

On page 1, between lines 17 and 18 to add the following:

"***Section 156c. No municipality shall enact an ordinance based upon a person's sexual orientation.***

Section 156d. No municipality shall enact any ordinance to occupy any part of the field of regulation of the sale, transfer, ownership, possession, carrying, use, or transportation of firearms, firearms accessories, or components of firearms or ammunition, or combination thereof."

Floor Amendment No. 2 to the Committee Substitute to **SB 55**, by Representative Palumbo:

On page 2, after line 11, by inserting the following:

"Section 3. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

  (a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

  (b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

  (a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

  (b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property***, or obtaining the rental of or retaining possession of a residential or commercial leasehold interest in property prior to or during the term of the rental***.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of

taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not such sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report or form issued or prescribed by the Revenue Cabinet and required to be filed with the Revenue Cabinet as prescribed by law.

Section 4. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

- (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;
- (b) Prevents another from acquiring information which would affect his judgment of a transaction;
- (c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;
- (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or
- (e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

- (a) The maker had no account with the drawee at the time the check or order was issued;
- (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or
- (c) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ten dollars ($10), if the instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, ***rent,*** or the amount of the check or sight order referred to in subsection (5) or (6) of this section is three hundred dollars ($300) or more, in which case it is a Class D felony."

Floor Amendment No. 4 to Floor Amendment No. 1 to **SB 72**, by Representative Stacy:

On page 5, by deleting all of the underlined language in Section 6 and by inserting in lieu thereof the following: "***The cabinet shall hire one hundred twenty additional employees to enforce the provisions of Sections 1 to 8 and Section 9 of this Act.***"

Floor Amendment No. 4 to **SB 277**, by Representative Maricle:

On page 46, below line 21, to add the following:

"SECTION 38. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

No state agency, or any public officer or public employee, shall use their position or the facilities and resources of the Commonwealth to promote homosexuality or pedophilia.

Floor Title Amendment to **SB 287**, by Representative Lewis:

On page 1, by deleting the existing title and inserting in lieu thereof the following: "AN ACT relating to insurance."

Adjournment

Representative Long moved that the House adjourn until 2:00 p.m., Monday, March 28, 1994.

The motion to adjourn was adopted by voice vote.

MONDAY, MARCH 28, 1994

FIFTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore L. Clark.

Prayer by Gary Straub, First Christian Church, Frankfort.

The Speaker Pro Tempore led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Clarke.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 25, 1994 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **HB 308, HB 335, HB 368, HB 380, HB 405, HB 432, HB 499, HB 568, HB 573, HB 616, HB 618, HB 705, HB 707, HB 710, HB 787, HB 889, HB 893, HJR 62, HJR 66, HJR 81, SCR 104, HB 6, HB 48, HB 152, HB 186, HB 190, HB 232, HB 234, HB 338, HB 408, HB 458, HB 494, HB 497, HB 531, HB 553, HB 571, HB 629, HB 646, HB 648, HB 649, HB 651, HB 683, HB 704, HB 713, HB 715, HB 737, HB 742, HB 762, HB 788, HB 863, HCR 49, HCR 60** and **HB 912**.

Message received on **HB 46, HB 56, HB 58, HB 67, HB 205, HB 399, HB 481, HB 639, HB 647, HB 830, HB 207, HB 488, HB 864, HB 900**, and **HB 851**: The Senate has passed **HB 46**, with Senate Floor Amendments, **HB 56**, with Senate Committee Amendments, **HB 58**, by way of Senate Committee Substitute No. 2, **HB 67**, with Senate Committee Amendment and Senate Floor Amendment, **HB 205**, by way of Senate Committee Substitute, **HB 399**, with Senate Committee Amendment, **HB 481**, with Senate Committee Amendments and Senate Floor Amendment, **HB 639**, with Senate Floor Amendment, **HB 647**, with Senate Committee Amendment, **HB 830**, with Senate Committee Amendment, **HB 207**, by way of Senate Committee Substitute, **HB 488**, with Senate Committee Amendment, **HB 864**, by way of Senate Committee Substitute, **HB 900**, with Senate Committee Amendment, and **HB 851**, with Senate Committee Amendments: (Time: 2:05 p.m.)

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 114, by Representative Geveden: A RESOLUTION recommending the designation of Ballard County, Kentucky; Alexander County, Illinois; and Mississippi County, Missouri, as a Federal Rural Empowerment Zone and Enterprise Community.

HR 115, by Representative Geveden: A RESOLUTION recommending the designation of Fulton County, Kentucky; Lake County, Tennessee; and parts of Pemiscott and New Madrid Counties, Missouri, as a Federal Rural Empowerment Zone and Enterprise Community.

HR 116, by Representatives Ford and Bryant: A RESOLUTION recommending the designation of McCreary County, Kentucky, and Scott County, Tennessee, as a Federal Empowerment Zone and Enterprise Community.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

Education: **HR 112**

State Government: **HR 113**

Orders of the Day

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

HCR 103 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 103** be adopted.

On the roll call the vote was: Yeas 82, Nays 0. (See March 28, 1994 roll call on **HCR 103** - Appendix)

HCR 103 was adopted.

HCR 104 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HCR 104** be adopted.

On the roll call the vote was: Yeas 80, Nays 7. (See March 28, 1994 roll call on **HCR 104** - Appendix)

HCR 104 was adopted.

Representative Morris moved that the vote by which **HCR 104** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 74, SB 100, SB 154, SB 199, SB 303, SB 320, SJR 68** and **SCR 86** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:16 p.m.)

Orders of the Day (Continued)

HR 97, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HR 97**. Agreed.

Representative Gray moved that **HR 97**, as amended, be adopted.

HR 97, as amended, was adopted by voice vote.

Representative Gray moved the adoption of Floor Title Amendment to **HR 97**. Agreed; and the title was agreed to.

Representative Gray moved that the vote by which **HR 97**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **SB 171**, by Representative Donnermeyer:

On page 2 line 7, after the period delete "*"Public record" shall not mean a Social Security number collected in association with the materials listed in this subsection that are prepared, owned, used, in the possession of, or retained by, a public agency.*" and

On page 2 line 26, after "*,*" insert "*collected in association with the materials listed in this subsection that are prepared, owned, used, in the possession of, or retained by, a public agency,*"

Floor Amendment No. 1 to **SB 314**, by Representative Donnermeyer:

On page 5, after line 27 by adding the following:

"Section 4. KRS 160.370 is amended to read as follows:

The superintendent shall be the executive agent of the board that appoints him and shall meet with the board, except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules, and regulations of the State Board for Elementary and Secondary Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters. He shall prepare, under the direction of the board, all rules, regulations, bylaws, and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the discipline of pupils, and the management of business affairs. He shall be responsible for the hiring*, with the approval of the board,* and dismissal of all personnel in the district.

Section 5. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made [~~only~~] by the superintendent of schools ***and shall be approved by the board***[~~, who shall notify the board of the action taken~~]. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the State Board for Elementary and Secondary Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position.

(e) Effective July 1, 1991, no relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district prior to July 13, 1990, and who is certified for the position he holds, as long as the superintendent is holding office on July 1, 1991, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor. Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

(4) (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(5) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months."

Orders of the Day (Continued)

SB 168, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved the adoption of Floor Amendment No. 1 to **SB 168**. Agreed.

Representative Nesler moved that **SB 168**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 28, 1994 roll call on **SB 168** - Appendix)

SB 168, as amended, was passed and the title agreed to.

Representative Nesler moved that the vote by which **SB 168**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 171, with Committee Substitute, Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved the adoption of the Committee Substitute to **SB 171**. Agreed.

Representative Butler moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 171**. Agreed.

Representative Zimmerman moved that **SB 171**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 3. (See March 28, 1994 roll call on **SB 171** - Appendix)

SB 171, by way of Committee Substitute as amended, was passed.

Representative Zimmerman moved the adoption of the Committee Title Amendment to **SB 171**. Agreed; and the title was agreed to.

Representative Zimmerman moved that the vote by which **SB 171**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 195, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **SB 195**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to **SB 195**. Agreed.

Representative Lear moved that **SB 195**, as amended, be passed.

On the roll call the vote was: Yeas 73, Nays 13. (See March 28, 1994 roll call on **SB 195** - Appendix)

SB 195, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 195**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **SB 222**, by Representative Callahan:

On page 7, after line 7, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 6 of this Act, unless the context otherwise requires:

(1) "City" means any municipal corporation of any class incorporated in the Commonwealth, any urban county government organized pursuant to KRS Chapter 67A, and any charter county government organized pursuant to KRS Chapter 67;

(2) "Juvenile" means any person under eighteen (18) years of age;

(3) "Parent" means a biological or adoptive mother or father of a juvenile, a person who has been given legal custody of a juvenile, or a person who exercises custodial control or supervision over a juvenile, but does not necessarily have legal custody.

SECTION 5. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

In accordance with Sections 4 to 6 of this Act, any city may enact and enforce an ordinance establishing a juvenile curfew and making it unlawful for any juvenile to violate the terms of the ordinance. As it applies to juveniles, an ordinance enacted pursuant to the authority of this section shall be subject to the following conditions:

(1) A juvenile curfew ordinance shall establish clear standards in precise language adequate to apprise juveniles and parents of the conduct which constitutes a violation of the ordinance and which is adequate to circumscribe the discretion of police officers in order to overcome subjective or discriminatory enforcement;

(2) A juvenile curfew ordinance shall contain exceptions designed to permit juveniles to exercise constitutionally protected rights;

(3) A juvenile curfew ordinance shall not authorize a police officer to detain a juvenile for a violation of the ordinance for any period longer than reasonably necessary to issue to the juvenile a warning citation regarding the violation and to obtain the juvenile's name, address, telephone number, and other information necessary to allow the officer to identify, locate, and contact the juvenile's parent;

(4) A juvenile curfew ordinance shall not impose a penalty on a juvenile who has committed a violation of a juvenile curfew ordinance;

(5) A juvenile curfew ordinance may provide that upon the issuance of a third or subsequent warning citation to a juvenile for a violation of the ordinance, a status offense complaint may be filed charging the juvenile with the offense of violating the ordinance and this section. Upon the filing of a status offense complaint as authorized by this subsection, the juvenile shall be dealt with in accordance with the applicable provisions of the Kentucky Unified Juvenile Code, KRS Chapters 600 to 645.

SECTION 6. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

A juvenile curfew ordinance may make it unlawful for a parent to permit or allow a juvenile to engage in conduct which constitutes a violation of the ordinance. The ordinance may provide that it shall be no defense to a citation for a violation of the ordinance that the parent was without knowledge of or indifferent to the juvenile's activities or conduct which constituted the violation of the ordinance. The ordinance may establish penalties, as authorized by KRS 83A.065, which may be imposed on a parent found in violation of the ordinance.

Section 7. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court;

(13) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Department" means the Department for Social Services;

(15) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(31) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33) "Parent" means the biological or adoptive mother or father of a child;

(34) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36) "Physical injury" means substantial physical pain or any impairment of physical condition;

(37) "Public offense action" means an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense;

(38) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42) "Secretary" means the secretary of the Cabinet for Human Resources;

(43) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily

organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children***,*** such as a violation of curfew***, except as provided in Sections 4 through 6 of this Act,*** or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 640 and who is subsequently convicted in Circuit Court."

Floor Title Amendment to the Committee Substitute to **SB 222**, by Representative Callahan:

By amending the title to read as follows:

"AN ACT relating to juveniles."

Orders of the Day (Continued)

SB 214, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lyne moved that **SB 214** be passed.

On the roll call the vote was: Yeas 90, Nays 4. (See March 28 , 1994 roll call on **SB 214** - Appendix)

SB 214 was passed and the title agreed to.

Representative Lyne moved that the vote by which **SB 214** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 52, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **SB 52** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 28 , 1994 roll call on **SB 52** - Appendix)

SB 52 was passed and the title agreed to.

Representative Brown moved that the vote by which **SB 52** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 262, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute to **SB 262**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 262**.

Representative Mullinix inquired if Floor Amendment No. 2 was germane to the Committee Substitute to **SB 262**.

Representative Mullinix withdrew the inquiry if Floor Amendment No. 2 was germane to the Committee Substitute to

SB 262.

Floor Amendment No. 2 to the Committee Substitute to **SB 262** was adopted.

Representative Ballard moved that **SB 262,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 63, Nays 31. (See March 28, 1994 roll call on **SB 262** - Appendix)

SB 262, by way of Committee Substitute as amended, was passed.

Representative Stumbo moved the adoption the Floor Title Amendment to **SB 262.** Agreed; and the title was agreed to.

Representative Ballard moved that the vote by which **SB 262,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 272 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 272** be passed.

On the roll call the vote was: Yeas 49, Nays 41. (See March 28 , 1994 roll call on **SB 272** - Appendix)

SB 272, being a bill proposing an amendment to the Constitution and therefore requiring three-fifths vote of the members, was defeated.

SB 93, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 93.** Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to **SB 93.**

Representative Farrow inquired if Floor Amendment No. 1 was germane to **SB 93.**

The Chair ruled that Floor Amendment No. 1 was not germane to **SB 93.**

Representative Stumbo moved that **SB 93,** as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See March 28, 1994 roll call on **SB 93** - Appendix)

SB 93, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 93,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 289 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **SB 289** be passed.

On the roll call the vote was: Yeas 79, Nays 13. (See March 28 , 1994 roll call on **SB 289** - Appendix)

SB 289 was passed and the title agreed to.

Representative Wayne moved that the vote by which **SB 289** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 314 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **SB 314** be passed.

On the roll call the vote was: Yeas 85, Nays 5. (See March 28 , 1994 roll call on **SB 314** - Appendix)

SB 314 was passed and the title agreed to.

Representative Curd moved that the vote by which **SB 314** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 343, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **SB 343.**

Representative Farrow inquired if Floor Amendment No. 1 was germane to **SB 343**.

The Chair ruled that Floor Amendment No. 1 was not germane to **SB 343**.

Representative Rasche moved that **SB 343** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 28 , 1994 roll call on **SB 343** - Appendix)

SB 343 was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 343** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 344 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 344** be passed.

On the roll call the vote was: Yeas 87, Nays 5. (See March 28 , 1994 roll call on **SB 344** - Appendix)

SB 344 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 344** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 74 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **SCR 74** be adopted.

On the roll call the vote was: Yeas 82, Nays 1. (See March 28, 1994 roll call on **SCR 74** - Appendix)

SCR 74 was adopted.

Representative Stumbo moved that the vote by which **SCR 74** was adopted be reconsidered and said motion be placed on the table. Agreed.

SCR 81, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **SCR 81**. Agreed.

Representative Johnson moved that **SCR 81**, as amended, be adopted.

On the roll call the vote was: Yeas 86, Nays 1. (See March 28, 1993 roll call on **SCR 81** - Appendix)

SCR 81, as amended, was adopted.

Representative Johnson moved that the vote by which **SCR 81**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

SJR 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SJR 82** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 28, 1994 roll call on **SJR 82** - Appendix)

SJR 82 was adopted.

Representative Richards moved that the vote by which **SJR 82** was adopted be reconsidered and said motion be placed on the table. Agreed.

SCR 84 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SCR 84** be adopted.

On the roll call the vote was: Yeas 88, Nays 1. (See March 28, 1994 roll call on **SCR 84** - Appendix)

SCR 84 was adopted.

Representative Richards moved that the vote by which **SCR 84** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 170, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 170** be passed.

On the roll call the vote was: Yeas 74, Nays 14. (See March 28 , 1994 roll call on **SB 170** - Appendix)

SB 170 was passed.

Representative Marzian moved the adoption of the Floor Title Amendment to **SB 170**. Agreed, and the title was agreed to.

Representative Marzian moved that the vote by which **SB 170**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Lindsay stated that since Floor Amendment No. 1 was not adopted, the Floor Title Amendment was not needed.

Representative Marzian moved that the motion to adopt the Floor Title Amendment to **SB 170** be withdrawn. Agreed.

SB 287, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of the Committee Substitute to **SB 287**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 2 to **SB 287**. Agreed.

Representative Cave moved the adoption of Floor Amendment No. 1 to **SB 287**. Agreed.

Representative B. Smith moved that **SB 287**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 12. (See March 28, 1994 roll call on **SB 287** - Appendix)

SB 287, by way of Committee Substitute as amended, was passed.

Representative B. Smith moved the adoption of the Floor Title Amendment to **SB 287**. Agreed, and the title was agreed to.

Representative B. Smith moved that the vote by which **SB 287**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 316, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **SB 316**.

On the roll call on the adoption of Floor Amendment No. 1 to **SB 316**, the vote was **Yeas 44**--Allen, Altman, Barrows, Bowling, Brown, Bruce, Bryant, Callahan, Cave, L. Clark, Crenshaw, Damron, DeWeese, Donnermeyer, Farrow, Ford, French, Geveden, Gray, Hancock, Kerr, Lear, LeMaster, Long, Morris, Noland, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Riggs, Scorsone, Simpson, B. Smith, R. Smith, Stengel, Todd, Trapp, Treesh, Turner, Wayne, Worthington, Zimmerman. **Nays 42**--Ackerson, Adams, Adkins, Ballard, Bentley, Bondurant, Buis, Burch, Butler, P. Clark, Coleman, Curd, Deskins, Fox, Gedling, Graham, Hampton, Harper, Jensen, Keith, Lee, Lile, Little, Lyne, Maggard, Maricle, Marzian, McElroy, Moberly, Mullinix, Napier, Nelson, Nesler, Northup, Ridley, Riner, Sanders, Scott, Shacklette, Stacy, Stumbo, Yates.

Floor Amendment No. 1 to **SB 316** was adopted.

Representative Stumbo moved the adoption of Floor Amendment No. 8 to **SB 316**.

Representative Keith inquired if Floor Amendment No. 8 was germane to **SB 316**.

The Chair ruled that Floor Amendment No. 8 was germane to **SB 316**.

On the roll call on the adoption of Floor Amendment No. 8 to **SB 316**, the vote was **Yeas 72**--Adams, Adkins, Altman, Arnold, Ballard, Bentley, Bondurant, Bowling, Brown, Bruce, Butler, Cave, L. Clark, P. Clark, Coleman, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Farley, Farrow, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hancock, Hatcher, Heleringer, Johnson, Kerr, Lear, Lee, LeMaster, Lindsay, Little, Long, Lyne, Maricle, Mason, McElroy, Moberly, Mullinix, Nelson, Nesler, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Trapp, Treesh, Turner, Walton, Worthington, Yates. **Nays 17**--Ackerson, Allen, Barrows, Bryant, Buis, Burch, Ford, Hampton, Harper, Jensen, Maggard, Marzian, Noland, Northup, Nunn, Riner, Zimmerman.

Floor Amendment No. 8 to **SB 316** was adopted.

Representative Stacy moved the adoption of Floor Amendment No. 5 to **SB 316**. Agreed.

Representative Arnold moved that **SB 316**, as amended, be passed.

Representative Northup moved the adoption of Floor Amendment No. 4 to **SB 316**.

Representative Stacy inquired if Floor Amendment No. 4 was germane to **SB 316**.

The Chair ruled that Floor Amendment No. 4 was germane to **SB 316**.

On the roll call on the adoption of Floor Amendment No. 4 to **SB 316**, the vote was **Yeas 22**--Ackerson, Bowling, Burch, Cave, Crenshaw, DeWeese, Donnermeyer, Geveden, Harper, Heleringer, Lear, Marzian, Mason, Northup, Rasche, Ridley, Riggs, Riner, Scorsone, Stengel, Trapp, Treesh. **Nays 60**--Adams, Adkins, Allen, Altman, Arnold, Ballard, Bentley, Bondurant, Brown, Bruce, Bryant, Buis, Butler, L. Clark, P. Clark, Coleman, Curd, Cyrus, Damron, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Graham, Gray, Hampton, Hatcher, Jensen, Keith, Lee, Lindsay, Little, Lyne, Maggard, Maricle, McElroy, Moberly, Mullinix, Napier, Nelson, Nesler, Noland, Nunn, Rapier, Reinhardt, Richards, Sanders, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stumbo, Todd, Turner, Worthington.

Floor Amendment No. 4 to **SB 316** was rejected.

Representative Arnold moved that **SB 316**, as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 13. (See March 28, 1993 roll call on **SB 316** - Appendix)

SB 316, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **SB 316**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **HCR 90**. Message received on **HB 302**: The Senate has passed **HB 302**, with Senate Committee Amendment, and respectfully requests concurrence of this Honorable Body. (Time: 4:25 p.m.)

Orders of the Day (Continued)

HB 302, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 2 to **HB 302** is as follows:

On page 2, line 9, after the word "activities." by deleting the words "Included in the above appropriation"; and On page 2, by deleting lines 10 through 16 in their entirety; and

On page 3, line 26, by deleting the amount "1,532,100" and inserting the amount "1,601,800"; and by deleting the amount "1,501,000" and inserting the amount "1,574,200"; and

On page 4, line 1, by deleting the amount "1,765,300" and inserting the amount "1,835,000"; and by deleting the amount "1,724,200" and inserting the amount "1,797,400"; and

On page 4, line 10, by deleting the amount "8,375,000" and inserting the amount "8,513,000"; and by deleting the amount "8,711,400" and inserting the amount "8,854,600"; and

On page 4, line 11, by deleting the amount "12,446,600" and inserting the amount "7,676,600"; and by deleting the amount "12,517,300" and inserting the amount "7,517,300"; and

On page 4, line 13, by deleting the amount "22,024,100" and inserting the amount "17,392,100"; and by deleting the amount "22,426,300" and inserting the amount "17,569,500"; and

On page 4, after line 13 and before line 14, by inserting the following:

"Included in the above General Fund appropriation for the Asbestos Litigation Program is $138,000 in fiscal year 1994-95 and $100,000 in fiscal year 1995-96, and included in the above restricted fund appropriation is $230,000 in fiscal year 1994-95 from the Asbestos Settlement Recovery Fund for the sole purpose of litigation related expenses. Any fund balance remaining at the end of fiscal year 1993-94 for the Asbestos Litigation Program shall be carried forward into fiscal year 1994-95 and any fund balance remaining at the end of fiscal year 1994-95 shall be carried forward into fiscal year 1995-96."; and

On page 4, line 17, by deleting the amount "12,606,200" and inserting the amount "12,282,500"; and by deleting the amount "13,161,500" and inserting the amount "12,817,600"; and

On page 4, line 20, by deleting the amount "12,943,800" and inserting the amount "12,620,100"; and by deleting the amount "13,511,900" and inserting the amount "13,168,000"; and

On page 4, line 23, by deleting the amount "12,942,400" and inserting the amount "12,762,500"; and by deleting the amount "13,575,100" and inserting the amount "13,386,600"; and

On page 4, line 25, by deleting the amount "12,947,500" and inserting the amount "12,767,600"; and by deleting the amount "13,575,600" and inserting the amount "13,387,100"; and

On page 5, line 1, by deleting the amount "25,548,600" and inserting the amount "25,045,000"; and by deleting the amount "26,736,600" and inserting the amount "26,204,200"; and

On page 5, line 4, by deleting the amount "25,891,300" and inserting the amount "25,387,700"; and by deleting the amount "27,087,500" and inserting the amount "26,555,100"; and

On page 5, line 17, by deleting the amount "12,267,800" and inserting the amount "12,167,800"; and by deleting the amount "12,892,000" and inserting the amount "12,503,000"; and

On page 5, line 20, by deleting the amount "15,551,200" and inserting the amount "15,451,200"; and by deleting the amount "16,140,800" and inserting the amount "15,751,800"; and

On page 5, by deleting lines 26 through 27 in their entirety; and

On page 6, line 4, by deleting the amount "7,611,200" and inserting the amount "7,561,200"; and

On page 6, line 7, by deleting the amount "14,120,000" and inserting the amount "14,070,000"; and

On page 6, line 9, by deleting the words "for the operation and support of the Lexington" ; and by deleting lines 10 through 12 in their entirety and inserting in lieu thereof the following: "and included in the above restricted fund appropriation is $1,189,100 in fiscal year 1994-95 and $1,311,000 in fiscal year 1995-96 in support of the Lexington-Bluegrass Army Depot jobs retention and expansion project for necessary personnel, operations, and maintenance costs."; and

On page 7, line 6, by deleting the amount "10,094,300" and inserting the amount "10,044,300"; and

On page 7, line 9, by deleting the amount "25,433,600" and inserting the amount "25,383,600"; and

On page 8, line 9, by deleting the amount "10,000"; and by deleting the amount "6,171,800" and inserting the amount "5,111,700"; and by deleting the amount "6,173,500" and inserting the amount "5,240,400"; and

On page 8, line 12, by deleting the amount "5,976,800" and inserting the amount "5,966,800"; and by deleting the amount "44,610,000" and inserting the amount "43,549,900"; and by deleting the amount "44,536,700" and inserting the amount "43,603,600"; and

On page 8, by deleting lines 23 through 27 in their entirety; and

On page 9, by deleting lines 1 through 4 in their entirety; and

On page 9, after line 23 and before line 24, by inserting the following:

"Notwithstanding KRS 48.185, no funds are provided from the General Fund for the Area Development Fund."; and

On page 9, by deleting lines 24 through 25 in their entirety; and

On page 10, line 1, by deleting the amount "4,750,000"; and by deleting the amount "51,247,200" and inserting the amount "46,747,200"; and by deleting the amount "58,603,700" and inserting the amount "54,103,700"; and

On page 10, line 4, by deleting the amount "1,665,700" and inserting the amount "1,740,700"; and

On page 10, line 7, by deleting the amount "1,769,100" and inserting the amount "1,844,100"; and

On page 10, after line 9 and before line 10, by inserting the following:

"Included in the above General Fund appropriation is $75,000 in fiscal year 1994-95 to support the Commission in the performance of disparity analyses consistent with the U. S. Supreme Court decision in City of Richmond v. Croson. Any unexpended balance at the end of fiscal year 1994-95 shall be carried forward for expenditure into fiscal year 1995-96."; and

On page 10, by deleting line 20 in its entirety; and

On page 10, line 21, by deleting the amount "10,407,300" and inserting the amount "9,881,100"; and by deleting the amount "10,968,800" and inserting the amount "10,442,600"; and

On page 10, by deleting line 22 in its entirety; and

On page 11, line 1, by deleting the word "surplus"; and

On page 11, line 3, after the word "reform", insert the words "and shall be deemed a necessary governmental expense subject to the conditions and procedures specified in Part III"; and

On page 15, line 6, by deleting the amount "198,400" and inserting the amount "125,300"; and by deleting the amount "207,100" and inserting the amount "130,500"; and

On page 18, line 4, by deleting the amount "16,984,200" and inserting the amount "16,271,000"; and by deleting the amount "17,954,300" and inserting the amount "17,200,400"; and

On page 18, line 6, by deleting the amount "19,047,200" and inserting the amount "18,334,000"; and by deleting the amount "20,002,800" and inserting the amount "19,248,900"; and

On page 18, line 9, by deleting the words "ADVISORY COMMISSION"; and

On page 18, line 14, after the word "transferred" by inserting "and" ; and by deleting the words "to the"; and

On page 18, line 15, by deleting "Veterans' Nursing Home Advisory Commission which will be"; and

On page 18, line 22, by deleting the amount "5,030,000" and inserting the amount "270,000"; and by deleting the amount "167,927,400" and inserting the amount "160,683,900"; and by deleting the amount "180,795,500" and inserting the amount "173,300,700"; and

On page 18, line 23, by deleting the amount "74,971,200" and inserting the amount "69,675,000"; and by deleting the amount "74,716,900" and inserting the amount "69,190,700"; and

On page 18, line 25, by deleting the amount "11,130,900" and inserting the amount "6,370,900"; and by deleting the amount "292,591,600" and inserting the amount "280,051,900"; and by deleting the amount "305,105,700" and inserting the amount "292,084,700"; and

On page 19, line 3, by deleting the amount "2,473,900" and inserting the amount "2,493,900"; and by deleting the amount "2,460,600" and inserting the amount "2,535,600"; and

On page 19, line 14, by deleting the amount "54,623,900" and inserting the amount "54,648,900"; and by deleting the amount "58,855,700" and inserting the amount "55,361,700"; and

On page 19, line 15, by deleting the amount "1,529,100" in the fiscal year 1995-96 column and inserting the amount "2,195,100"; and

On page 19, line 16, by deleting the amount "56,153,800" and inserting the amount "56,178,800"; and by deleting the amount "60,384,800" and inserting the amount "57,556,800"; and

On page 20, line 1, by deleting the amount "4,091,000" and inserting in lieu thereof the amount "572,000"; and

On page 20, line 16, by deleting the word "Bluegrass State Skills Corporation: ", and inserting after the word "The" the words "Bluegrass State Skills"; and

On page 21, line 1, by deleting the amount "1,762,000" and inserting the amount "1,970,700"; and by deleting the amount "1,798,500" and inserting the amount "1,890,000"; and

On page 21, line 4, by deleting the amount "2,730,400" and inserting the amount "2,911,800"; and by deleting the amount "3,047,800" and inserting the amount "3,236,100"; and

On page 21, line 5, by deleting the amount "143,100" and inserting the amount "193,100"; and by deleting the amount "148,900" and inserting the amount "198,900"; and

On page 21, line 7, by deleting the amount "3,275,700" and inserting the amount "3,507,100"; and by deleting the amount "3,855,600" and inserting the amount "4,093,900"; and

On page 22, line 1, by deleting the amount "63,134,600" and inserting the amount "63,569,700"; and by deleting the amount "67,759,600" and inserting the amount "64,620,400"; and

On page 22, line 2, by deleting the amount "1,976,000" and inserting the amount "2,026,000"; and by deleting the amount "1,981,000" and inserting the amount "2,697,000"; and

On page 22, line 4, by deleting the amount "65,512,800" and inserting the amount "65,997,900"; and by deleting the amount "70,399,500" and inserting the amount "67,976,300"; and

On page 22, line 9, by deleting the amount "1,868,284,100" and inserting the amount "1,867,594,100"; and by deleting the amount "1,921,492,800" and inserting the amount "1,920,302,800"; and

On page 22, line 12, by deleting the amount "1,528,590,100" and inserting the amount "1,539,383,700"; and

On page 22, line 13, by deleting the amount "1,572,774,200" and inserting in lieu thereof the amount "1,586,506,700"; and

On page 25, line 20, after the word Management, by inserting "/Minority Educator Recruitment and Retention"; and

On page 25, after line 20 and before line 21, by adding the following:

"1. Executive Policy and Management"; and

On page 25, after line 25 and before line 26, by adding the following:

"2. Minority Educator Recruitment and Retention

	1994-95	1995-96
General Fund	750,000	1,100,000"; and

On page 28, line 13, by deleting the amount "136,759,800" and inserting the amount "104,951,200"; and by deleting the amount "145,387,000" and inserting the amount "108,225,700"; and

On page 28, line 16, by deleting the amount "327,056,400" and inserting the amount "295,247,800"; and by deleting the amount "335,878,700" and inserting the amount "298,717,400"; and

On page 28, by deleting lines 17 through 26 in their entirety;

On page 29, line 2, by deleting the amount "2,258,411,800" and inserting the amount "2,226,663,200"; and by deleting the amount "2,351,737,900" and inserting the amount "2,314,486,600"; and

On page 29, line 5, by deleting the amount "2,581,939,700" and inserting the amount "2,550,191,100"; and by deleting the amount "2,677,865,000" and inserting the amount "2,640,613,700

On page 29, line 13, by deleting the amount "3,242,100" and inserting the amount "3,142,100"; and

On page 29, line 14, by deleting the amount "3,358,100" and inserting the amount "3,258,100" ; and

On page 29, after line 18 and before line 19, by adding the following:

"Also included in the above General Fund appropriation is $100,000 in each fiscal year to support the Task Force on the Deaf and Hard of Hearing."; and

On page 30, line 2, by deleting the amount "3,191,500" and inserting the amount "2,242,200"; and

On page 30, line 4, by deleting the amount "3,510,700" and inserting the amount "2,561,400"; and

On page 30, by deleting lines 8 through 9 in their entirety; and

On page 32, line 3, by deleting the amount "1,165,000" and inserting the amount "665,000"; and

On page 32, line 6, by deleting the amount "2,015,300" and inserting the amount "1,515,300"; and

On page 32, line 9, by deleting the amount "262,900" and inserting the amount "376,400"; and by deleting the amount "274,000" and inserting the amount "341,500"; and

On page 33, line 5, by deleting the amount "160,831,600" and inserting the amount "160,445,100"; and by deleting the amount "160,651,200" and inserting the amount "159,769,400"; and

On page 33, line 8, by deleting the amount "171,540,100" and inserting the amount "171,153,600"; and by deleting the amount "170,946,300" and inserting the amount "170,064,500"; and

On page 33, line 13, by deleting the amount "24,383,000" and inserting the amount "24,191,000"; and by deleting the amount "27,983,600" and inserting the amount "28,072,900"; and

On page 33, line 17, by deleting the amount "108,904,300" and inserting the amount "108,712,300"; and by deleting the amount "70,305,900" and inserting the amount "70,395,200"; and

On page 33, line 18, by deleting the amount "265,500" and inserting the amount "73,500"; and

On page 33, line 19, by deleting the amount "1,480,000" and inserting the amount "1,097,000"; and

On page 33, line 20, by deleting the amount "6,606,000" and inserting the amount "6,214,200"; and by deleting the amount "6,573,000" and inserting the amount "6,449,300"; and

On page 33, line 22, by deleting the amount "952,700" and inserting the amount "1,425,000"; and

On page 33, line 24, by deleting the amount "10,680,700" and inserting the amount "10,676,300"; and

On page 34, after line 3 and before line 4, by inserting the following:

"The Secretary of the Finance and Administration Cabinet may request additional funding for the state banking contract as a necessary governmental expense after the contract has been issued and subject to the conditions and procedures specified in Part III."; and

On page 34, line 12, by deleting the amount "7,795,200" and inserting the amount "7,664,600"; and by deleting the amount "8,034,200" and inserting the amount "7,899,600"; and

On page 34, line 14, by deleting the amount "32,446,600" and inserting the amount "32,316,000"; and by deleting the amount "33,364,600" and inserting the amount "33,230,000"; and

On page 34, by deleting lines 15 through 17 in their entirety; and

On page 35, line 8, by deleting the amount "49,211,700" and inserting the amount "48,889,100"; and by deleting the amount "53,282,300" and inserting the amount "53,237,000"; and

On page 35, line 12, by deleting the amount "243,865,400" and inserting the amount "243,542,800"; and by deleting the amount "209,242,500" and inserting the amount "209,197,200"; and

On page 36, line 10, after the word "grants." by deleting the remaining language on line 10; and

On page 36, by deleting lines 11 through 13 in their entirety; and

On page 36, line 14, by deleting the words, "college in Kentucky"; and

On page 37, line 5, by deleting the amount "54,219,000" and inserting the amount "54,031,000"; and by deleting the amount "55,965,100" and inserting the amount "55,476,200"; and

On page 37, line 8, by deleting the amount "143,317,400" and inserting the amount "143,129,400"; and by deleting the amount "148,104,900" and inserting the amount "147,616,000"; and

On page 37, line 10, by deleting the amount "6,126,400" and inserting the amount "5,821,500"; and

On page 38, line 8, by deleting the amount "38,762,500" and inserting the amount "38,606,500"; and by deleting the amount "39,867,300" and inserting the amount "39,721,300"; and

On page 38, line 11, by deleting the amount "79,928,100" and inserting the amount "79,772,100"; and by deleting the amount "81,294,200" and inserting the amount "81,148,200"; and

On page 38, line 13, by deleting the amount "3,730,200" and inserting the amount "3,740,200"; and

On page 38, line 14, by deleting the word "a"; and

On page 39, line 1, by deleting the amount "245,565,800" and inserting the amount "243,334,400"; and by deleting the amount "255,523,700" and inserting the amount "250,194,200"; and

On page 39, line 4, by deleting the amount "754,755,800" and inserting the amount "752,524,400"; and by deleting the amount "787,733,200" and inserting the amount "782,403,700"; and

On page 39, line 5, by deleting the amount "17,257,900" and inserting the amount "14,946,500"; and

On page 39, line 6, by deleting the amount "20,316,600" and inserting the amount "14,957,100"; and

On page 39, by deleting lines 9 through 20 in their entirety; and

On page 39, line 23, by deleting the amount "78,053,600" and inserting the amount "76,500,900"; and

On page 39, line 26, by deleting the amount "171,236,500" and inserting the amount "169,683,800"; and

On page 40, line 1, by deleting the amount "13,791,900" and inserting the amount "12,239,200"; and

On page 40, line 6, by deleting the amount "137,799,200" and inserting the amount "137,769,200"; and by deleting the amount "141,686,800" and inserting the amount "141,656,800"; and

On page 40, line 9, by deleting the amount "346,726,600" and inserting the amount "346,696,600"; and by deleting the amount "358,305,700" and inserting the amount "358,275,700"; and

On page 40, line 23, by deleting the amount "51,503,300" and inserting the amount "51,131,300"; and by deleting the amount "53,418,500" and inserting the amount "52,535,800"; and

On page 40, line 26, by deleting the amount "113,701,800" and inserting the amount "113,329,800"; and by deleting the amount "117,886,800" and inserting the amount "117,004,100"; and

On page 41, line 1, by deleting the amount "4,838,700" and inserting the amount "4,328,000"; and

On page 41, line 6, by deleting the amount "716,808,800" and inserting the amount "713,831,400"; and by deleting the amount "745,054,500" and inserting the amount "736,624,700"; and

On page 41, line 9, by deleting the amount "1,846,237,500" and inserting the amount "1,843,260,100"; and by deleting the amount "1,918,582,700" and inserting the amount "1,910,152,900"; and

On page 41, line 15, by deleting the amount "27,497,200" and inserting the amount "48,440,600"; and by deleting the amount "32,645,500" and inserting the amount "49,333,100"; and

On page 41, line 16, by deleting the amount "35,448,800" and inserting the amount "20,757,300"; and by deleting the amount "38,415,500" and inserting the amount "22,190,200"; and

On page 41, line 17, by deleting the amount "109,727,900" and inserting the amount "94,382,600"; and by deleting the amount "120,247,000" and inserting the amount "95,448,900"; and

On page 41, line 18, by deleting the amount "172,673,900" and inserting the amount "163,580,500"; and by deleting the amount "191,308,000" and inserting the amount "166,972,200"; and

On page 42, line 9, by deleting the amount "73,895,900" and inserting the amount "88,221,800"; and by deleting the amount "82,857,200" and inserting the amount "91,241,200"; and

On page 42, line 11, by deleting the amount "170,216,800" and inserting the amount "187,154,400"; and by deleting the amount "173,268,000" and inserting the amount "186,739,600"; and

On page 42, line 12, by deleting the amount "248,939,700" and inserting the amount "280,203,200"; and by deleting the amount "265,056,400" and inserting the amount "286,912,000"; and

On page 42, by deleting lines 16 through 22 in their entirety;

On page 42, by deleting line 27 in its entirety;

On page 43, by deleting lines 1 through 11 in their entirety;

On page 43, line 14, by deleting the amount "4,258,000" and inserting the amount "2,758,000"; and by deleting the amount "3,560,500" and inserting the amount "2,060,500"; and

On page 43, line 15, by deleting the amount "432,700" and inserting the amount "1,932,700"; and by deleting the amount "454,400" and inserting the amount "1,954,400"; and

On page 43, line 25, by deleting the amount "21,746,500" and inserting the amount "21,513,400"; and by deleting the amount "22,362,200" and inserting the amount "22,117,600"; and

On page 43, line 27, by deleting the amount "26,489,400" and inserting the amount "26,256,300"; and by deleting the amount "27,336,600" and inserting the amount "27,092,000"; and

On page 44, line 1, by deleting the amount "51,635,800" and inserting the amount "51,169,600"; and by deleting the amount "53,098,700" and inserting the amount "52,609,500"; and

On page 44, line 22, by deleting the amount "6,500,000" and inserting the amount "11,200,000"; and by deleting the amount "408,100,000" and inserting the amount "410,335,000"; and by deleting the amount "461,300,000" and inserting the amount "463,572,000"; and

On page 44, line 23, by deleting the amount "173,800,000" and inserting the amount "170,800,000"; and by deleting the amount "183,200,000" and inserting the amount "179,200,000"; and

On page 44, line 24, by deleting the amount "1,352,058,700" and inserting the amount "1,350,186,400"; and by deleting the amount "1,474,088,400" and inserting the amount "1,470,220,000"; and

On page 44, line 25, by deleting the amount "6,500,000" and inserting the amount "11,200,000"; and by deleting the amount "1,933,958,700" and inserting the amount "1,931,321,400"; and by deleting the amount "2,118,588,400" and inserting the amount "2,112,992,000"; and

On page 46, line 1, by deleting the amount "47,568,800" and inserting the amount "46,482,500"; and by deleting the amount "48,442,800" and inserting the amount "46,836,300"; and

On page 46, line 2, by deleting the amount "8,724,400" and inserting in lieu thereof the amount "8,924,400"; and

On page 46, line 3, by deleting the amount "119,376,300" and inserting the amount "120,875,800"; and by deleting the amount "120,036,500" and inserting the amount "121,569,400"; and

On page 46, line 4, by deleting the amount "175,481,300" and inserting the amount "175,894,500"; and by deleting the amount "177,203,700" and inserting the amount "177,330,100"; and

On page 46, line 8, by deleting the amount "126,958,500" and inserting the amount "122,303,000"; and by deleting the amount "137,191,800" and inserting the amount "127,125,500"; and

On page 46, line 9, by deleting the amount "67,224,600" and inserting the amount "70,656,700"; and by deleting the amount "71,814,200" and inserting the amount "72,735,400"; and

On page 46, line 10, by deleting the amount "24,493,400" and inserting the amount "23,943,400"; and by deleting the amount "24,089,300" and inserting the amount "23,539,200"; and

On page 46, line 11, by deleting the amount "218,676,500" and inserting the amount "216,903,100"; and by deleting the amount "233,095,300" and inserting the amount "223,400,100"; and

On page 46, line 14, by deleting the amount "129,522,400" and inserting the amount "135,510,700"; and by deleting the amount "136,185,000" and inserting the amount "142,534,300"; and

On page 46, line 15, by deleting the amount "4,745,200" and inserting the amount "3,586,200"; and by deleting the amount "7,238,400" and inserting the amount "3,591,200"; and

On page 46, line 16, by deleting the amount "109,886,800" and inserting the amount "137,408,900"; and by deleting the amount "113,112,200" and inserting the amount "138,769,100"; and

On page 46, line 17, by deleting the amount "244,154,400" and inserting the amount "276,505,800"; and by deleting the amount "256,535,600" and inserting the amount "284,894,600"; and

On page 46, line 26, by deleting the amount "26,730,100" and inserting the amount "57,311,800"; and by deleting the amount "26,535,800" and inserting the amount "64,449,300"; and

On page 46, line 27, by deleting the amount "6,656,300" and inserting the amount "5,917,200"; and by deleting the amount "7,024,200" and inserting the amount "5,904,000"; and

On page 47, line 1, by deleting the amount "16,221,400" and inserting the amount "15,612,900"; and by deleting the amount "16,454,400" and inserting the amount "15,797,600"; and

On page 47, line 2, by deleting the amount "49,607,800" and inserting the amount "78,841,900"; and by deleting the amount "50,014,900" and inserting the amount "86,150,900"; and

On page 47, line 3, by deleting the amount "11,870,000" and inserting in lieu thereof the amount "11,770,000"; and

On page 47, line 4, by deleting the amount "12,162,000" and inserting in lieu thereof the amount "12,262,000"; and

On page 47, after line 4 and before line 5, by adding the following:

"The General Fund appropriation for the Family Resources/Youth Services Program is $31,848,600 in fiscal year 1994-95 and $37,351,500 in fiscal year 1995-96."; and

On page 47, line 17, by deleting the amount "102,400" and inserting the amount "98,700"; and by deleting the amount "180,000" and inserting the amount "103,500"; and

On page 47, line 18, by deleting the amount "3,102,400" and inserting the amount "3,098,700"; and by deleting the amount "3,180,000" and inserting the amount "3,103,500"; and

On page 47, line 21, by deleting the amount "6,500,000" and inserting the amount "11,200,000"; and by deleting the amount "885,214,500" and inserting the amount "937,157,800"; and by deleting the amount "978,303,300" and inserting the amount "1,020,336,200"; and

On page 47, line 22, by deleting the amount "320,111,200" and inserting the amount "299,767,300"; and by deleting the amount "332,291,700" and inserting the amount "309,495,500"; and

On page 47, line 23, by deleting the amount "2,412,559,600" and inserting the amount "2,406,138,100"; and by deleting the amount "2,543,748,500" and inserting the amount "2,531,340,800"; and

On page 47, line 24, by deleting the amount "6,500,000" and inserting the amount "11,200,000"; and by deleting the amount "3,617,885,300" and inserting the amount "3,643,063,200"; and by deleting the amount "3,854,343,500" and inserting the amount "3,861,172,500"; and

On page 48, line 1, before the term "1994-95", by adding a new column heading "1993-94"; and

On page 48, line 2, after the word "Fund", by inserting the amount "500,000" in the fiscal year 1993-94 column; and

On page 48, line 2, by deleting the amount "2,518,200" and inserting the amount "2,278,200"; and by deleting the amount "3,016,100" and inserting the amount "2,276,100"; and

On page 48, line 5, after the word "Total", by adding the amount 500,000 in the fiscal year 1993-94 column; and by deleting the amount "12,853,400" and inserting the amount "12,613,400"; and by deleting the amount "13,053,900" and inserting the amount "12,313,900"; and

On page 48, after line 5 and before line 6, by adding the following:

"Included in the above General Fund appropriation is $500,000 in fiscal year 1993-94 to Justice Administration to support the Charitable Gaming Commission. Any funds not expended by June 30, 1994, shall not lapse, and shall carry forward to fiscal year 1994-95."; and

On page 48, line 8, by deleting the amount "39,521,000" and inserting the amount "39,237,200"; and by deleting the amount "41,516,800" and inserting the amount "40,779,000"; and

On page 48, line 12, by deleting the amount "88,074,300" and inserting the amount "87,790,500"; and by deleting the amount "92,041,700" and inserting the amount "91,303,900"; and

On page 48, line 14, by deleting the word "Also"; and

On page 48, by deleting line 15 and 16 in its entirety; and

On page 49, line 17, after the word "issued.", by adding the following: "The carry forward of restricted funds from the insurance surcharge for the Kentucky Law Enforcement Foundation Program Fund and for any operations of the

Department for Criminal Justice Training is hereby limited to an amount not to exceed $2,000,000 at the end of each fiscal year. Any amount available above the $2,000,000 balance on June 30 of fiscal year 1993-94 and fiscal year 1994-95 shall lapse to the General Fund. The Secretary of the Revenue Cabinet shall adjust the insurance premium surcharge to conform with this section."; and

On page 49, line 21, after "Fund", by adding the amount "500,000" in the fiscal year 1993-94 column; and

On page 49, line 21, by deleting the amount "42,039,200" and inserting the amount "41,515,400"; and by deleting the amount "44,532,900" and inserting the amount "43,055,100"; and

On page 49, line 25, by deleting the amount "3,000,000" and inserting the amount "3,500,000"; and by deleting the amount "117,605,000" and inserting the amount "117,081,200"; and by deleting the amount "122,361,900" and inserting the amount "120,884,100"; and

On page 50, line 2, by deleting the amount "23,660,500" and inserting the amount "24,041,500"; and by deleting the amount "25,490,100" and inserting the amount "26,251,100"; and

On page 50, line 4, by deleting the amount "23,781,200" and inserting the amount "24,162,200"; and by deleting the amount "25,490,600" and inserting the amount "26,251,600"; and

On page 50, line 10, after the word "is", by adding the following: "$381,000 in fiscal year 1994-95 and"; and, by deleting the amount "$724,300" and inserting in lieu thereof the amount "$1,485,300"; and

On page 50, line 15, after the word "Complex," by adding the words "a new 250-bed medium security dormitory at the Green River Correctional Complex,"; and

On page 50, line 21, by deleting the amount "119,922,300" and inserting the amount "119,791,800"; and by deleting the amount "128,555,400" and inserting the amount "128,018,400"; and

On page 50, line 24, by deleting the amount "133,254,500" and inserting the amount "133,124,000"; and by deleting the amount "140,399,700" and inserting the amount "139,862,700"; and

On page 50, line 27, by deleting the amount "36,392,200" and inserting the amount "35,819,700"; and by deleting the amount "40,019,500" and inserting the amount "38,551,100"; and

On page 51, line 3, by deleting the amount "37,103,700"; and by deleting the amount "40,731,000" and inserting the amount "36,531,200"; and

On page 51, line 3, by inserting the amount "39,262,600" in the fiscal year 1995-96 far right column; and

On page 51, by deleting lines 4 through 8 in their entirety; and

On page 52, line 1, by deleting the amount "194,443,500" and inserting the amount "194,121,500"; and by deleting the amount "208,533,500" and inserting the amount "207,289,100"; and

On page 52, line 4, by deleting the amount "208,607,900" and inserting the amount "208,285,900"; and by deleting the amount "221,089,800" and inserting the amount "219,845,400"; and

On page 52, line 7, by inserting the amount "500,000" in the fiscal year 1993-94 column; and

On page 52, line 7, by deleting the amount "236,482,700" and inserting the amount "235,636,900"; and by deleting the amount "253,066,400" and inserting the amount "250,344,200"; and

On page 52, line 11, by deleting the amount "3,000,000" and inserting the amount "3,500,000"; and by deleting the amount "326,212,900" and inserting the amount "325,367,100"; and by deleting the amount "343,451,700" and inserting the amount "340,729,500"; and

On page 52, line 16, by deleting the amount "418,800" and inserting the amount "211,800"; and by deleting the amount "428,600" and inserting the amount "221,600"; and

On page 52, line 18, by deleting the amount "3,550,100" and inserting the amount "3,343,100"; and by deleting the amount "3,533,500" and inserting the amount "3,326,500"; and

On page 53, line 25, by deleting the amount "2,130,400" and inserting the amount "1,923,400"; and by deleting the amount "2,173,500" and inserting the amount "1,966,500"; and

On page 54, line 1, by deleting the amount "167,096,000" and inserting the amount "166,889,000"; and by

deleting the amount "184,206,000" and inserting the amount "183,999,000"; and

On page 54, line 21, by deleting the amount "18,758,300" and inserting the amount "18,576,900"; and by deleting the amount "19,448,500" and inserting the amount "19,260,200"; and

On page 54, line 22, by deleting the amount "15,013,500" and inserting the amount "14,963,500"; and by deleting the amount "14,903,400" and inserting the amount "14,853,400"; and

On page 54, line 24, by deleting the amount "45,494,400" and inserting the amount "45,263,000"; and by deleting the amount "45,804,000" and inserting the amount "45,565,700"; and

On page 55, line 21, after "appropriated", by inserting the words "subject to the conditions and procedures specified in Part III"

On page 56, line 3, by deleting the amount "3,837,900" and inserting the amount "3,637,900"; and

On page 56, line 6, by deleting the amount "4,557,300" and inserting the amount "4,357,300"; and

On page 56, line 10, by deleting the amount "44,244,200" and inserting the amount "44,062,800"; and by deleting the amount "45,913,800" and inserting the amount "45,525,500"; and

On page 56, line 11, by deleting the amount "26,969,000" and inserting the amount "26,919,000"; and by deleting the amount "27,145,800" and inserting the amount "27,095,800"; and

On page 56, line 13, by deleting the amount "123,402,500" and inserting the amount "123,171,100"; and by deleting the amount "125,476,400" and inserting the amount "125,038,100"; and

On page 56, line 17, by deleting the word "Fund" and inserting the word "Funds"; and

On page 57, line 1, by deleting the amount "9,546,200" and inserting the amount "10,546,200"; and by deleting the amount "9,570,500" and inserting the amount "10,570,500"; and

On page 57, line 7, by deleting the amount "45,059,000" and inserting the amount "44,877,600"; and by deleting the amount "46,799,700" and inserting the amount "46,411,400"; and

On page 57, line 8, by deleting the amount "38,007,300" and inserting the amount "38,957,300"; and by deleting the amount "37,915,800" and inserting the amount "38,865,800"; and

On page 57, line 10, by deleting the amount "135,280,500" and inserting the amount "136,049,100"; and by deleting the amount "137,157,300" and inserting the amount "137,719,000"; and

On page 58, line 12, by deleting the amount "23,809,800" and inserting the amount "23,559,800"; and by deleting the amount "23,949,700" and inserting the amount "23,449,700"; and

On page 58, line 13, by deleting the amount "26,685,400" and inserting the amount "26,435,400"; and by deleting the amount "27,016,000" and inserting the amount "26,516,000"; and

On page 59, line 1, by deleting the amount "3,000,000" and inserting the amount "2,000,000"; and by deleting the amount "2,500,000" and inserting the amount "2,000,000"; and

On page 59, line 3, by deleting the words ", which includes $500,000"; and

On page 59, by deleting lines 4 through 5 in their entirety; and

On page 59, line 6, by deleting the word "1995-96"; and

On page 59, line 7, after "suspended." by inserting the following: "The Secretary of Revenue shall adjust the insurance premium surcharge rate to conform with this section."; and

On page 59, line 19, by deleting the amount "8,772,600" and inserting the amount "8,702,600"; and by deleting the amount "9,040,800" and inserting the amount "8,970,800"; and

On page 59, line 22, by deleting the amount "10,380,500" and inserting the amount "10,310,500"; and by deleting the amount "10,647,400" and inserting the amount "10,577,400"; and

On page 60, line 2, by deleting the words "Included in the General Fund appropriation is"; and

On page 60, by deleting lines 3 through 4 in their entirety;

On page 60, line 7, by deleting the amount "12,350,100" and inserting the amount "12,450,100"; and by deleting the amount "12,728,100" and inserting the amount "12,828,100"; and

On page 60, line 9, by deleting the word "Fund", and inserting the word "Funds"; and

On page 60, line 10, by deleting the amount "15,259,300" and inserting the amount "15,359,300"; and by deleting the amount "16,665,700" and inserting the amount "16,755,700"; and

On page 61, line 14, by deleting the amount "33,517,400" and inserting the amount "33,547,400"; and by deleting the amount "35,076,300" and inserting the amount "35,106,300"; and

On page 61, line 15, by deleting the amount "56,681,300" and inserting the amount "56,431,300"; and by deleting the amount "58,221,400" and inserting the amount "57,721,400"; and

On page 61, line 17, by deleting the amount "92,604,000" and inserting the amount "92,384,000"; and by deleting the amount "95,782,100" and inserting the amount "95,312,100"

On page 61 line 22, by deleting the amount "24,613,900" and inserting the amount "25,174,500“; and

On page 61, line 24, by deleting the amount "24,670,000" and inserting the amount "25,230,600“; and

On page 62, line 9, by deleting the amount "14,886,000" and inserting the amount "17,419,700"; and by deleting the amount "15,817,800" and inserting the amount "17,853,800"; and

On page 62, line 11, by deleting the amount "2,876,800" and inserting the amount "1,218,300"; and by deleting the amount "2,842,200" and inserting the amount "1,239,500"; and

On page 62, line 13, by deleting the amount "19,022,800" and inserting the amount "19,898,000"; and by deleting the amount "19,966,900" and inserting the amount "20,400,200"; and

On page 62, line 18, by deleting the words "Included in the above restricted funds appropriation is $1,658,900 in"; and

On page 62, by deleting lines 19 through 21 in their entirety;

On page 62, line 24, by deleting the amount "5,234,900" and inserting the amount "5,357,700"; and

On page 62, line 27, by deleting the amount "6,854,300" and inserting the amount "6,977,100"; and

On page 63, line 9, by deleting the amount "44,734,800" and inserting the amount "47,951,900"; and by deleting the amount "46,711,000" and inserting the amount "48,747,000"; and

On page 63, line 11, by deleting the amount "4,297,300" and inserting the amount "2,638,800"; and by deleting the amount "4,460,800" and inserting the amount "2,858,100"; and

On page 63, line 13, by deleting the amount "50,547,100" and inserting the amount "52,105,700"; and by deleting the amount "52,738,800" and inserting the amount "53,172,100"; and

On page 63, line 17, by deleting the amount "170,824,100" and inserting the amount "166,850,400"; and by deleting the amount "187,943,600" and inserting the amount "183,536,200"; and

On page 63, line 20, by deleting the amount "44,734,800" and inserting the amount "47,951,900"; and by deleting the amount "46,711,000" and inserting the amount "48,747,000"; and

On page 63, line 22, by deleting the amount "175,121,400" and inserting the amount "169,489,200"; and by deleting the amount "192,404,400" and inserting the amount "186,394,300"; and

On page 63, line 24, by deleting the amount "221,371,200" and inserting the amount "218,956,100"; and by deleting the amount "240,682,400" and inserting the amount "236,708,300"; and

On page 64, line 1, by deleting the amount "1,151,400" and inserting the amount "1,131,400"; and by deleting the amount "1,189,100" and inserting the amount "1,169,100"; and

On page 64 , by deleting lines 2 through 4 in their entirety; and

On page 64, line 13, after the word "and", by inserting the word "to"; and

On page 64, line 19, after the number "$2,030,000", by deleting the word "in"; and

On page 64, line 24, by deleting the amount "23,541,200" and inserting the amount "23,126,200"; and by deleting the amount "33,069,700" and inserting the amount "30,686,100"; and

On page 64, line 26, by deleting the amount "65,243,600" and inserting the amount "64,828,600"; and by deleting the amount "76,103,700" and inserting the amount "73,720,100"; and

On page 65, line 4, by deleting the amount "8,081,000" and inserting the amount "6,666,400"; and by deleting the amount "85,097,000" and inserting the amount "70,195,000"; and by deleting the amount "701,000" and inserting the amount "147,000"; and by deleting the word "projects" and inserting the word "project"; and

On page 65, line 6, by deleting the word "projects"; and

On page 65, by deleting lines 7 through 10 in their entirety; and

On page 65, line 20, by deleting the amount "10,959,900" and inserting the amount "8,584,900"; and

On page 65, line 22, by deleting the amount "31,718,100" and inserting the amount "29,343,100"; and

On page 65, by deleting line 25 in its entirety; and

On page 65, line 26, by deleting the words " debt service authorization for the project identified in Part II." and;

On page 66, line 11, by deleting the amount "41,836,300" and inserting the amount "41,401,300"; and by deleting the amount "54,042,900" and inserting the amount "49,264,300"; and

On page 66, line 14, by deleting the amount "131,458,400" and inserting the amount "131,023,400"; and by deleting the amount "146,248,800" and inserting the amount "141,470,200"; and

On page 67, line 12, by deleting the amount "2,932,200" and inserting the amount "932,200"; and by deleting the amount "2,939,600" and inserting the amount "939,600"; and

On page 67, line 15, by deleting the amount "6,828,000" and inserting the amount "4,828,000"; and by deleting the amount "6,845,900" and inserting the amount "4,845,900"; and

On page 67, by deleting lines 16 through 19 in their entirety; and

On page 69, line 7, by inserting after "1994-95" the words "and in fiscal year 1995-96"; and

On page 72, line 9, by deleting the amount "6,125,800" and inserting the amount "4,125,800"; and by deleting the amount "5,160,200" and inserting the amount "3,160,200"; and

On page 72, line 14, by deleting the amount "1,287,259,500" and inserting the amount "1,285,259,500"; and by deleting the amount "1,314,649,600" and inserting the amount "1,312,649,600"; and

On page 73, line 20, by deleting the amount "7,859,400" and inserting the amount "7,734,400"; and by deleting the amount "8,260,900" and inserting the amount "8,135,900"; and

On page 73, line 23, by deleting the amount "43,809,800" and inserting the amount "43,684,800"; and by deleting the amount "45,930,400" and inserting the amount "45,805,400"; and

On page 73, line 27, by deleting the amount "7,401,000" and inserting the amount "7,371,000"; and by deleting the amount "9,454,800" and inserting the amount "7,497,800"; and

On page 74, line 3, by deleting the amount "12,574,900" and inserting the amount "12,544,900"; and by deleting the amount "14,402,200" and inserting the amount "12,445,200"; and

On page 74, line 6, by deleting the words "Debt service of $761,000 in fiscal year 1995-96 is provided for the"; and

On page 74, by deleting lines 7 through 9 in their entirety;

On page 75, line 5, by deleting the amount "92,598,400" and inserting the amount "92,443,400"; and by deleting the amount "102,251,000" and inserting the amount "100,169,000"; and

On page 75, line 8, by deleting the amount "209,769,400" and inserting the amount "209,614,400"; and by deleting the amount "221,807,500" and inserting the amount "219,725,500"; and

On page 75, line 27, by deleting the word "Bond" and inserting the word "Agency"; and by deleting the amount "32,000,000" and inserting the amount "7,000,000"; and

On page 76, line 2, by deleting the amount "85,000,000" and inserting the amount "60,000,000"; and

On page 76, line 4, by deleting the words "Northern Kentucky Convention Center - $25,000,000 Bond Funds;"; and

On page 76, line 5, by deleting the word "Bond" and inserting the word "Agency"; and

On page 76, line 11, by deleting the amount "11,000,000" and inserting the amount "6,000,000"; and

On page 76, by deleting lines 12 through 17 in their entirety;

On page 77, by deleting lines 13 through 15 in their entirety;

On page 77, after line 20 and before line 21, by adding the following:

"c. Satellite Dish Repointing

General Funds $500,000 (fiscal year 1995-96 column)

d. Video Compression Lease Purchase

General Funds $310,000 (fiscal year 1995-96 column)"; and

On page 78, line 3, by deleting the amount "77,500,000" and inserting the amount "66,830,000"; and

On page 78, line 14, by deleting the amount "10,000,000" and inserting the amount "15,000,000"; and

On page 78, line 24, by deleting the words "at such time"; and

On page 79, by deleting lines 5 through 8 in their entirety; and

On page 79, line 9, by deleting the letter "e" and inserting the letter "c"; and

On page 79, line 10, by deleting the amount "3,688,600" and inserting the amount "1,000,000"; and by deleting the amount "2,000,000" and inserting the amount "1,000,000"; and

On page 79, line 11, by deleting the letter "f" and inserting the letter "d"; and

On page 79, line 13, by deleting the letter "g" and inserting the letter "e"; and

On page 79, line 15, by deleting the letter "h" and inserting the letter "f"; and

On page 79, line 19, by deleting the letter "i" and inserting the letter "g"; and

On page 79, line 26, by deleting the words "at such time"; and

On page 81, by deleting lines 3 through 9 in their entirety; and

On page 81, line 10, by deleting "b" and inserting "a"; and

On page 81, line 12, by deleting "c" and inserting "b"; and

On page 81, by deleting lines 25 through 27 in their entirety; and

On page 82, by deleting lines 1 through 2 in their entirety; and

On page 82, line 3, by deleting the number "6" and inserting the number "5"; and

On page 82, after line 10 and before line 11, by inserting the word "General Fund"; and by inserting the amount "157,000" in the fiscal year 1994-95 column; and

On page 82, after line 11 and before line 12, by inserting the word "Total"; and by inserting the amount "3,900,000" in the fiscal year 1994-95 column; and

On page 82, after line 12 and before line 13, by inserting the word "General Fund"; and by inserting the amount "220,000" in the fiscal year 1994-95 column; and

On page 82, after line 13 and before line 14, by inserting the word "Total"; and by inserting the amount "4,619,000" in the fiscal year 1994-95 column; and

On page 83, by deleting lines 3 through 5 in their entirety; and

On page 83, line 6, by deleting the number "7" and inserting the number "6"; and

On page 83, line 8, by deleting the number "8" and inserting the number "7"; and

On page 83, after line 18 and before line 19, by inserting the following:

"b. Computer Processor

Restricted Funds 275,000" (fiscal year 1994-95 column); and

On page 85, line 3, by deleting the words "Bond Funds" and inserting the words "Restricted Bonds"; and

On page 88, line 4, by deleting the amount "1,200,000" in the fiscal year 1994-95 column; and by inserting the amount "1,200,000" in the fiscal year 1995-96 column; and

On page 88, line 5, by deleting the amount "1,200,000" in the fiscal year 1994-95 column; and

On page 88, line 5, by deleting the amount "1,200,000" in the fiscal year 1995-96 column; and by inserting the amount "2,400,000" in the fiscal year 1995-96 column; and

On page 89, after line 8 and before line 9, by inserting the following:

"s. ADA Compliance, Elevator, Doyle Fine Arts

Restricted Funds 250,000" (fiscal year 1995-96 column); and

On page 91, by deleting lines 3 through 9 in their entirety; and renumbering accordingly; and

On page 91, by deleting lines 16 through 17 in their entirety; and renumbering accordingly; and

On page 91, line 24, by deleting the word "Additional" and inserting the word "Reauthorization"; and

On page 91, by deleting line 25 in its entirety; and

On page 101, by deleting lines 17 through 18 in their entirety; and renumbering accordingly; and

On page 101, line 21, by deleting the words "Phase I" and inserting the word "Additional"; and

On page 101 by deleting line 24 in its entirety; and

On page 101, line 25, by deleting the amount "13,500,000" and inserting the amount "3,500,000"; and

On page 103, after line 8 and before line 9, by inserting the following

"x. Hopkinsville Regional Technical Training Center Bond Funds 8,000,000" (fiscal year 1994-95 column); and

On page 112, by deleting lines 1 through 10 in their entirety, and renumber accordingly; and

On page 113, by deleting line 27 in its entirety; and

On page 114, by deleting lines 1 through 3 in their entirety; and renumbering accordingly; and

On page 128, by deleting line 13 through 24 in their entirety; and renumbering accordingly; and

On page 128, line 26, by deleting the words "Bond Funds" and inserting "Restricted Bonds"; and

On page 130, by deleting lines 17 through 18 in their entirety; and renumbering accordingly; and

On page 132, after line 2 and before line 3, by adding the following:

"m. Green River Correctional Complex - 250-bed Dormitory

Bond Funds 8,000,000" (fiscal year 1994-95 column); and

On page 133, by deleting lines 16 through 17 in their entirety; and

On page 134, line 12, by deleting the words "at such time"; and

On page 135, by deleting lines 9 through 12 in their entirety; and renumbering accordingly; and

On page 136, by deleting lines 7 through 10 in their entirety; and renumbering accordingly; and

On page 136, line 12, after the word "Reauthorization" by deleting the following; "/Additional", and by deleting the amount "2,000,000"; and

On page 136, by deleting lines 22 through 24 in their entirety; and renumbering accordingly; and

On page 136, line 27, after the word "Reauthorization" by deleting the following; "/Additional", and by deleting the amount "2,352,200"; and

On page 137, line 14, by deleting the amount "607,000" and inserting the amount "1,650,000"; and

On page 137, by deleting lines 23 and 24 in their entirety; and renumbering accordingly; and

On page 138, line 3, by deleting the amount "180,000" and inserting the amount "1,750,000"; and

On page 138, by deleting lines 4 and 5 in their entirety and inserting in lieu thereof the following:

"12. Carter Caves - Replace/Repair Cottages

Bond Funds 1,580,000" (fiscal year 1994-95 column); and

On page 138, by deleting lines 8 and 9 in their entirety and inserting in lieu thereof the following:

"13. Cumberland Falls - Cottage Replacement

Bond Funds 2,055,000" (fiscal year 1994-95 column); and

On page 138, by deleting lines 12 and 13 in their entirety and inserting in lieu thereof the following:

"14. Cumberland Falls - Renovate Lodge Complex

Bond Funds 1,625,000" (fiscal year 1994-95 column); and

On page 138, by deleting lines 16 and 17 in their entirety; and by renumbering accordingly; and

On page 138, by deleting lines 20 and 21 in their entirety and inserting in lieu thereof the following:

"15. J.J. Audubon - Teahouse Renovation

Bond Funds 865,000" (fiscal year 1994-95 column); and

On page 138, by deleting lines 25 through 26 in their entirety; and

On page 139, by deleting lines 17 and 18 in their entirety; and renumbering accordingly; and

On page 139, by deleting lines 21 through 24 in their entirety; and renumbering accordingly; and

On page 140, line 5, by deleting the amount "1,150,000" and inserting the amount "3,190,000"; and

On page 140, by deleting lines 6 through 8 in their entirety and inserting the following:

"16. Lake Cumberland - Country Store/Stable Replacement

Bond Funds 380,000" (fiscal year 1994-95 column); and

17. Lake Cumberland - Pumpkin Creek Lodge Renovation

Bond Funds 245,000" (fiscal year 1994-95 column); and

On page 140, by deleting lines 13 through 16 in their entirety; and renumbering accordingly; and

On page 141, by deleting lines 14 through 17 in their entirety; and renumbering accordingly; and

On page 141, by deleting lines 22 through 25 in their entirety and inserting in lieu thereof the following:

"18. Rough River - Boat Dock Improvements

Bond Funds 810,000" (fiscal year 1994-95 column); and

On page 142, by deleting lines 5 through 10 in their entirety; and

On page 144, by deleting lines 7 through 15 in their entirety;

On page 147, line 23, after the word "which" by inserting the words "the General Assembly appropriates"; and

On page 147, line 24, by inserting a comma after the word "premiums" : and

On page 147, line 25, by deleting the word "such" and inserting the word "the"; and by deleting the words "is appropriated by the General Assembly"; and

On page 150, line 27, by deleting the word "work"; and

On page 151, line 1, by deleting the word "work"; and

On page 151, line 22, by deleting the word "Executive" and inserting the word "State/Executive"; and

On page 152, line 2, by deleting the words "the Secretary of the Finance and Administration Cabinet,"; and

On page 152, line 4, by deleting the word "such" and inserting the word "the"; and by inserting after the word "moneys," the words "the Secretary of the Finance and Administration Cabinet"; and by deleting the words ", upon" and inserting in lieu thereof the words "the credit and expenditure of the funds for statutory purposes, subject to the prior"; and

On page 152, line 5, by inserting a comma after the word "Director"; and

On page 152, lines 6 and 7, by deleting the words ", the credit and expenditure of such funds for statutory purposes"; and

On page 152, line 17, by deleting the words "in the event of this occurrence"; and

On page 153, line 10, by deleting the word "and" and inserting a comma after the word "subsection"; and

On page 153, line 11, by deleting the word "thereof"; and by deleting the word "and/or" and inserting the word "and"; and

On page 153, line 12, by inserting a period after the word "law"; and by deleting the words "and if" and inserting "If"; and by deleting the words "thereof shall be"; and

On page 153, line 13, by deleting the word "held" and inserting the words "is found by a court of competent jurisdiction in a final, unappealable order to be"; and

On page 154, line 25, by deleting the words "In the event that" and inserting the word "If"; and

On page 155, line 1, by deleting the words "In the event that" and inserting the word "If"; and

On page 155, line 8, by deleting the words "in the event that" and inserting the word "if"; and

On page 156, line 12, by deleting the amount "51,500,000" and inserting the amount "55,500,000"; and

On page 156, line 13, by deleting the amount "30,000,000" and inserting the amount "10,000,000"; and

On page 157, line 6, by deleting the words "general appropriations bills" and inserting the words "branch budget bills"; and

On page 157, line 20, by deleting "48.160" and inserting "48.600"; and

On page 157, line 27, by deleting the words "general appropriations bills" and inserting the words "branch budget bills"; and

On page 158, line 14, by deleting the word "The", and inserting the word "the"; and by inserting the following before the first "the": "Except as otherwise provided in this Act,"; and

On page 158, line 27, by deleting "\" and inserting"/"; and

On page 160, line 5, by deleting the word "The" and inserting the word "the"; and by inserting the following before the first "the": "Notwithstanding the provisions of KRS 48.130 and 48.600, or as otherwise provided in this Act"; and

On page 160, line 20, by deleting the word "do" and inserting the word "shall"; and by deleting the words "To the extent"; and

On page 160, line 21, by deleting the word "that" and inserting the word "If"; and

On page 160, line 22, by deleting the word "When" and inserting the word "If; and

On page 160, line 26, by inserting a "." (period) after the word "subtotal"; and deleting the comma; and

On page 160, line 27, by deleting the word "and, if"; and inserting the word "If"; and by deleting the word "paragraph" and inserting the word "section"; and by inserting after the word "Reviser" the words "of Statutes"; and

On page 162, line 15, by deleting the word "net" and inserting the word "exclusive"; and by inserting after the word "of" the words "personnel in the budget units of"; and

On page 163, after line 15 and before line 16 by inserting the following:

"4. Kentucky Law Enforcement Foundation Program Fund 2,000,000 (fiscal year 1994-95 column)

(KRS 14.430 to 15.510; KRS 42.190; KRS 136.392)"; and

On page 163, by deleting lines 16 through 17 in their entirety; and

On page 163, line 18, by deleting the amount "6,375,000" and inserting in lieu thereof the amount "5,875,000"; and

On page 163, line 25, by deleting the word "and" and inserting a "," (comma); and

On page 163, line 26, after the word "functions" by inserting the words ", and other items that may be specified in this Act,"; and by deleting the words "Any budget"; and

On page 163, by deleting line 27 in its entirety and inserting in lieu thereof the following:

"No budget revision action shall be taken by a branch head in excess of the actual or projected deficit."; and

On page 164, by deleting line 1 in its entirety; and

On page 164, line 21, by deleting the words "In the event that" and inserting the word "If"; and

On page 165, after line 13 and before line 14, by adding the following:

(8) Recipient benefits and services in the Medicaid Program shall not be subject to the General Fund Budget Reduction Plan."; and

On page 165, lines 19 and 20, by deleting the words "at least two and one-half percent (2.5%) but not more than"; and

On page 165, line 20, by inserting the word "or" after the word "(5%)"; and

On page 165, line 23, after "48.130." by inserting the following: "No budget revision action shall be taken in excess of the actual or projected deficit."; and

On page 167, line 3, after the word "Contracts: " by deleting the remainder of line 3, and lines 4 through 15 in their entirety, and by inserting in lieu thereof the following: "The Office of the Attorney General shall present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies shall agree to make arrangements with the Office of the Attorney General to perform the legal work and pay for the services. State agencies shall submit any proposals for legal services to the Office of the Attorney General to determine if the legal services can be performed by the Office of the Attorney General. If the Office of the Attorney General requires additional personnel to accomplish the expanded legal work, the Governor's Office for Policy and Management and the Department of Personnel shall increase the personnel cap to accommodate the action. The funds received under the terms of this section shall be credited to a restricted fund account out of which expenditures may be made. Actions taken under the terms of this section shall be reviewed by the Interim Joint Committee on Appropriations and Revenue as provided in Part III."

On page 169, by deleting lines 1 through 8 in their entirety; and renumber accordingly; and

On page 170, after line 2 and before line 3, by inserting the following:

"5. KENTUCKY RETIREMENT SYSTEMS

a. Contracting Legal Services: Notwithstanding KRS 61.645 (11), the Kentucky Retirement Systems will submit any proposals for legal services to the Office of Attorney General to determine if the legal services can be performed by the Office of the Attorney General. The Kentucky Retirement Systems shall receive a written response from the Office of the Attorney General declining the work before a contract is entered into with a private attorney or law firm."

On page 170, by deleting lines 4 through 10 in their entirety, and renumber accordingly; and

On page 170, line 12, by deleting the words "Capital Projects:"; and

On page 171, line 5, by deleting the words "The Northern Kentucky Convention"; and

On page 171, by deleting lines 6 through 15 in their entirety and inserting the words: "The restricted funds for the Louisville Stadium shall not be made available until the University of Louisville and the Secretary of the Finance and Administration Cabinet are assured that: (1) the site location is safe for present and future generations; and (2) a testing and remediation plan is submitted to the University of Louisville and to the Finance Secretary which insures that health hazards do not exist. The State shall be held harmless from any environmental liability associated with the site location selected for the Louisville Stadium."; and

On page 171, line 26, by deleting the words "In the event that" and inserting the word "If"; and by deleting the word "such" and inserting the word "the"; and

On page 172, by deleting lines 5 through 11 in their entirety;

On page 172, line 23, after the word "MANAGEMENT", insert "MINORITY EDUCATOR RECRUITMENT AND RETENTION"; and

One page 172, after line 27 insert the following:

"b. Minority Educator Recruitment and Retention Program: There is created in the Department of Education an Office of Minority Educator Recruitment and Retention. This Office is established to increase the percentage of minority educators in the Commonwealth, to help retain those minority educators currently working in education, and to implement all or part of the strategic plan pursuant to KRS 161.165.

The goals of this program shall include but not be limited to the following: (a) increase the percentage of minority educators in proportion to the number of minority students; (b) encourage an increase in the percentage of minority individuals on the staffs of all school districts; (c) create programs to identify minority students in grades seven (7) through twelve (12) with college potential; (d) increase the pool of minority educators through aggressive recruitment and financial assistance to candidates, including paraprofessionals, those with degrees or careers in other fields, and community college students; and (e) provide administrative support for networking among minority educators and for implementation of the strategic plan.

The office shall coordinate with the Education Professional Standards Board, the Department of Education, the Council on Higher Education, the institutions of higher education, and local school districts to improve and retain minority educators. This office shall be housed in the Department of Education and administratively attached to the State Board for Elementary and Secondary Education. The staff of the office shall be employed by and report directly to the State Board for Elementary and Secondary Education. Staff shall include an office head, a division director, and other necessary and appropriate support staff.

On page 175, line 5 by deleting the word "o" and inserting the word "To"; and

On page 176, line 10, after the word "adjustment" by inserting "up to 1.5 percent (1.5%)"; and after the word "and" by inserting the word "an"; and after the word "service" by inserting the words "from $240 to $260"; and

On page 176, delete lines 12 through 18 in their entirety; and

renumber accordingly

On page 176, line 21, by deleting the words "and Advisory Commission"; and

On page 176, line 23, by deleting the words "to the Veterans Nursing Home Advisory Commission which is"; and

On page 176, line 24, before the word "attached" by inserting the word "and"; and by deleting the amount "$150,000"; and

On page 176, by deleting lines 25 through 27 in their entirety; and

On page 177, line 5, by deleting the amount "5,000,000" and inserting the amount "15,000,000"; and

On page 177, line 6, by inserting after the word "Fund" the words "and the federally Assisted Water Supply Revolving Fund. The Secretary of the Finance and Administration Cabinet shall utilize the bond funds to maximize federal funds available for both funds"; and

On page 177, line 6, by deleting the words "$5,000,000 in bonds is authorized in fiscal"; and

On page 177, by deleting lines 7 through 9 in their entirety; and

On page 177, after line 27, by inserting the following:

"Performance funds for fiscal year 1995-96 shall be appropriated to the institutions of higher education. By May 15, 1995, the Council on Higher Education and the Conference of Presidents, in consultation, shall determine the amount that each institution qualifies to expend; using the criteria contained in the 1994-96 fiscal biennium State/Executive Branch Budget Bill. Funds for which the institutions do not qualify shall lapse to the General Fund."; and

On page 178, after line 6 and before line 7, by inserting the following,

"d. Dental Education: There shall be no increase in the state General Fund appropriation for the University of Kentucky and the University of Louisville dental schools above the fiscal year 1993-94 level for the 1994-96 biennium. The state General Fund appropriation for each dental school shall be reduced, on a dollar-for-dollar basis, by the amount that each dental school receives in Medicaid reimbursement for those persons who become eligible for the Medicaid health plan by virtue of the Governor's new program to cover all Kentuckians with incomes up to 100 per cent (100%) of the federal poverty level. A financial review by the Council on Higher Education, the University of Kentucky, and the University of Louisville shall be held every six months to determine the amount of the offset against the state appropriation."; and

On page 178, line 9, by deleting the word "MoSU" and inserting the words "Morehead State University"; and

On page 178, after line 11 and before line 12, by inserting the following:

"17. MURRAY STATE UNIVERSITY:

a. Breathitt Veterinary Center: The General Fund appropriation is $2,014,800 in fiscal year 1994-95 and $2,075,200 in fiscal year 1995-96 for the Breathitt Veterinary Center. The restricted funds appropriation is $230,000 in each year for the Breathitt Veterinary Center. Notwithstanding KRS 48.130 and KRS 48.600, there shall be no reduction in funding."; and

On page 178, by deleting lines 12 through 24 in their entirety; and renumber accordingly; and

On page 179, by deleting lines 1 and 2 in their entirety; and

On page 179, line 3, by deleting the "b."; and

On page 179, line 9, by deleting the word "positions" and inserting the word "position"; and

On page 179, by deleting lines 13 through 14 in their entirety; and

On page 179, by deleting lines 25 through 27 in their entirety; and

On page 180 , by deleting line 1 in its entirety; and

On page 180, by deleting lines 13 through 14 in their entirety; and

On page 180, after line 14 and before line 15, by inserting the following:

"22. DEPARTMENT FOR MEDICAID SERVICES

a. Medicaid Benefits Budget: If the Medicaid appropriation is insufficient to provide current benefits to eligible recipients, it is the General Assembly's intent that no reduction in services or the number of eligible recipients occur, and there shall be a reduction in the provider reimbursements for covered services for the purpose of financing such deficiencies."; and renumbering accordingly; and

On page 180, by deleting lines 15 through 18 in their entirety; and renumbering accordingly; and

On page 181, by deleting lines 6 through 11 in their entirety;

On page 181, line 12, by deleting "e", and inserting in lieu thereof "d"; and

On page 181, by deleting lines 14 through 18 in their entirety; and renumbering accordingly; and

On page 181, line 21, by deleting the word "Status Report", and inserting in lieu thereof "Staff"; and

On page 181, line 26, by deleting the words "$500,000 is provided"; and

On page 181, by deleting line 27 in its entirety; and

On page 182, by deleting lines 1 through 7 in their entirety; and

On page 182, after line 7 and before line 8, by inserting the following:

"b. Charitable Gaming Commission: The General Fund appropriation of $500,000 in fiscal year 1993-94 shall be repaid by the Charitable Gaming Commission to the General Fund Surplus Account by the end of fiscal year 1995-96. The repayment shall be made from revenue generated from license fees imposed on charitable gaming operations. The license fees shall also provide the ongoing funding support for this Commission."; and

On page 182, by deleting lines 9 through 19 in their entirety and inserting in lieu thereof the following:

"a. State Police Auto Liability Insurance: General Fund moneys in the amount of $400,000 in each year of the next biennium is provided to reimburse sworn officers for the costs of motor vehicle liability insurance that is required for the occupation.";

On page 183, line 4, by deleting the word "scheduled" and inserting the word "schedule"; and

On page 183, line 10, by deleting the words "Funds are also provided"; and

On page 183, by deleting line 11 in its entirety; and

On page 183, line 12, by deleting the words "Correctional Senior Captains by $30 per month, effective June 16, 1994."; and

On page 183, by deleting lines 15 through 18 in their entirety; and

On page 183, line 19, by deleting "c", and inserting in lieu thereof "b"; and

On page 183, line 24, by deleting the words "Career Ladder and"; and by deleting the words "Funds are"; and

On page 183, by deleting lines 25 through 27 in their entirety; and

On page 184, by deleting lines 1 through 2 in their entirety; and

On page 184, line 4, by deleting the words "and the expansion, as"; and

On page 184, line 5, by deleting the words "described above,"; and

On page 184, by deleting lines 8 through 14 in their entirety; and

On page 184, line 24, by deleting the word "it" and inserting the word "its"; and

On page 185, after line 7 and before line 8, by adding the following:

"b. Environmental Inspector Upgrade: As funding becomes available through vacancy credits or other cost savings measures, the Cabinet shall upgrade the Environmental Inspector classifications consistent with the Personnel Board Order of October, 1991."; and

On page 185, by deleting lines 20 through 27 in their entirety; and

On page 186, by deleting lines 1 through 4 in their entirety; and

On page 186, line 5, by deleting the letter "c" and inserting the letter "a"; and

On page 186, by deleting lines 10 through 13 in their entirety; and renumbering accordingly; and

On page 187, by deleting lines 1 through 27 in their entirety; and

On page 188, by deleting line 1 in its entirety; and renumbering accordingly; and

On page 188, line 18, by inserting the word "the" after the word "to"; and

On page 189, by deleting lines 2 and 3 in their entirety; and

On page 189, line 4, by deleting the letter "c" and inserting the letter "b"; and

On page 189, line 5, after the word "not" by deleting the word "be"; and

On page 189, line 10, by inserting the word "that" after the word "directs"; and

On page 189, by deleting lines 16 through 21 in their entirety, and;

On page 189, line 22, by deleting the letter "b" and inserting the letter "a"; and

On page 190, line 4, by deleting the word "Six-Year" and inserting the words "Six Year"; and

On page 190, line 12, by deleting the word "million"; and

On page 191, by deleting lines 5 through 14 in their entirety;

On page 191, line 19, by deleting the amount "11,875,000" and inserting the amount "12,315,000"; and by deleting the amount "4,804,025,200" and inserting the amount "4,813,147,900"; and by deleting the amount "5,082,865,300" and inserting the amount "5,057,543,900"; and

On page 191, line 20, by deleting the amount "2,107,970,200" and inserting the amount "2,077,447,900"; and by deleting the amount "2,186,827,200" and inserting the amount "2,153,660,700"; and

On page 191, line 21, by deleting the amount "3,510,688,200" and inserting the amount "3,504,266,700"; and by deleting the amount "3,638,800,600" and inserting the amount "3,626,392,900"; and

On page 191, line 24, by deleting the amount "27,054,800" and inserting the amount "27,494,800"; and by deleting the amount "11,390,624,300" and inserting the amount "11,362,803,200"; and by deleting the amount "11,890,470,600" and inserting the amount "11,819,575,000"; and

On page 191, line 27, by deleting the amount "14,421,000" and inserting the amount "9,456,400"; and by deleting the amount "8,425,000" and inserting the amount "6,985,000"; and

On page 192, line 1, by deleting the amount "330,753,700" and inserting the amount "315,928,700"; and by deleting the amount "141,742,500" and inserting the amount "141,992,500"; and

On page 192, line 2, by deleting the amount "48,641,500" and inserting the amount "46,113,500"; and by deleting the amount "16,034,500" and inserting the amount "12,152,500"; and

On page 192, line 3, by deleting the amount "295,238,700" and inserting the amount "148,748,000"; and by deleting the amount "69,342,000" and inserting the amount "4,650,000"; and

On page 192, line 5, by deleting the amount "42,330,000" and inserting the amount "42,000,000"; and by inserting "5,450,000" in the fiscal year 1995-96 column; and

On page 192, line 8, by deleting the amount "1,500,000"; and

On page 192, line 9, by deleting the amount "827,681,900" and by inserting the amount "658,543,600"; and by deleting the amount "248,461,000" and by inserting the amount "182,647,000"; and

On page 192, line 12, by deleting the amount "51,500,000" and inserting the amount "56,500,000"; and by deleting the amount "30,000,000" and inserting the amount "10,000,000"; and

On page 192, line 15, by deleting the amount "63,375,000" and inserting the amount "68,815,000"; and by deleting the amount "4,848,446,200" and inserting the amount "4,832,604,300"; and by deleting the amount "5,091,290,300" and inserting the amount "5,064,528,900"; and

On page 192, line 16, by deleting the amount "2,438,723,900" and inserting the amount "2,393,376,600"; and by deleting the amount "2,328,569,700" and inserting the amount "2,295,653,200"; and

On page 192, line 17, by deleting the amount "3,559,329,700" and inserting the amount "3,550,380,200"; and by deleting the amount "3,654,835,100" and inserting the amount "3,638,545,400"; and

On page 192, line 19, by deleting the amount "361,713,700" and inserting the amount "215,223,000"; and by deleting the amount "162,867,000" and inserting the amount "98,175,000"; and

On page 192, line 20, by deleting the amount "42,330,000" and inserting the amount "42,000,000"; and by inserting the amount "5,450,000" in the fiscal year 1995-96 column; and

On page 192, line 23, by deleting the amount "1,500,000"; and

On page 192, line 24, by deleting the amount "85,486,800" and inserting the amount "90,926,800"; and by deleting the amount "12,248,306,200" and inserting the amount "12,031,346,800"; and by deleting the amount "12,138,931,600" and inserting the amount "12,002,222,000".

Representative Long moved that the House refuse to concur in Senate Committee Amendment No. 2 to **HB 302**. Agreed.

SB 348, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keith moved that **SB 348** be passed.

Representative Adkins moved the adoption of Floor Amendment No. 1 to **SB 348**. Agreed.

Representative Keith moved that **SB 348**, as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 26. (See March 28, 1993 roll call on **SB 348** - Appendix)

SB 348, as amended, was passed and the title agreed to.

Representative Keith moved that the vote by which **SB 348**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 246 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **SB 246** be passed.

On the roll call the vote was: Yeas 72, Nays 18. (See March 28 , 1994 roll call on **SB 246** - Appendix)

SB 246 was passed and the title agreed to.

Representative Long moved that the vote by which **SB 246** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 305 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **SB 305** be passed.

On the roll call the vote was: Yeas 82, Nays 3. (See March 28 , 1994 roll call on **SB 305** - Appendix)

SB 305 was passed and the title agreed to.

Representative Curd moved that the vote by which **SB 305** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 367 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **SB 367** be passed.

On the roll call the vote was: Yeas 81, Nays 0. (See March 28 , 1994 roll call on **SB 367** - Appendix)

SB 367 was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 367** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 277, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **SB 277**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 277**. Agreed.

Representative Stumbo moved that **SB 277**, by way of Committee Substitute as amended, be passed.

Representative Treesh moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 277**.

Representative Farrow inquired if Floor Amendment No. 3 to the Committee Substitute was germane to **SB 277**.

The Chair ruled that Floor Amendment No. 3 to the Committee Substitute was not germane to **SB 277**.

Representative Coleman moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 277**.

Representative Farrow inquired if Floor Amendment No. 2 to the Committee Substitute was germane to **SB 277**.

The Chair ruled that Floor Amendment No. 2 to the Committee Substitute was not germane to **SB 277**.

Representative Maricle requested a ruling on Floor Amendment No. 4 to the Committee Substitute to **SB 277**.

Representative Maricle moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **SB 277**.

The Chair ruled that Floor Amendment No. 4 to the Committee Substitute was not germane to **SB 277**.

Representative Stumbo moved that **SB 277**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 28, 1994 roll call on **SB 277** - Appendix)

SB 277, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 277**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 6, HB 48, HB 152, HB 186, HB 190, HB 232, HB 234, HB 308, HB 335, HB 338, HB 368, HB 380, HB 405, HB 408, HB 432, HB 458, HB 494, HB 497, HB 531, HB 553, HB 568, HB 571, HB 573, HB 616, HB 618, HB 629, HB 646, HB 648, HB 649, HB 651, HB 683, HB 704, HB 705, HB 707, HB 710, HB 713, HB 715, HB 737, HB 742, HB 762, HB 787, HB 788, HB 852, HB 863, HB 889, HB 893, HB 912, HCR 49, HCR 60, HJR 62, HJR 66** and **HJR 81** have been examined and found correctly enrolled. Said Bills and Resolutions read t length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time: 4:50 p.m.)

HB 6, HB 48, HB 152, HB 186, HB 190, HB 232, HB 234, HB 308, HB 335, HB 338, HB 368, HB 380, HB 405, HB 408, HB 432, HB 458, HB 494, HB 497, HB 531, HB 553, HB 568, HB 571, HB 573, HB 616, HB 618, HB 629, HB 646, HB 648, HB 649, HB 651, HB 683, HB 704, HB 705, HB 707, HB 710, HB 713, HB 715, HB 737, HB 742, HB 762, HB 787, HB 788, HB 852, HB 863, HB 889, HB 893, HB 912, HCR 49, HCR 60, HJR 62, HJR 66 and **HJR 81** delivered to the Senate, signed by the President. Delivered to the Governor on March 28, 1994 at 5:35 p.m.

Orders of the Day (Continued)

SB 319, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of the Committee Substitute to **SB 319**. Agreed.

Representative Kerr moved that **SB 319**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See March 28, 1994 roll call on **SB 319** - Appendix)

SB 319, by way of Committee Substitute, was passed and the title agreed to.

Representative Kerr moved that the vote by which **SB 319**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 351, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stengel moved the adoption of Floor Amendment No. 1 to **SB 351**. Agreed.

Representative Morris moved the adoption of Floor Amendment No. 4 to **SB 351**. Agreed.

Representative Little moved that **SB 351**, as amended, be passed.

Representative Simpson moved the adoption of Floor Amendment No. 3 to **SB 351**.

Representative Farrow inquired if Floor Amendment No. 3 was germane to **SB 351**.

The Chair ruled that Floor Amendment No. 3 was not germane to **SB 351**.

Representative Keith moved the adoption of Floor Amendment No. 2 to **SB 351**.

Representative Farrow inquired if Floor Amendment No. 2 was germane to **SB 351**.

The Chair ruled that Floor Amendment No. 2 was not germane to **SB 351**.

Representative Little moved that **SB 351**, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 9. (See March 28, 1994 roll call on **SB 351** - Appendix)

SB 351, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **SB 351**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 164, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 164** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 28 , 1994 roll call on **SB 164** - Appendix)

SB 164 was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 164** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 361, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Floor Amendment No. 1 to **SB 361**.

Representative Hancock inquired if Floor Amendment No. 1 was germane to **SB 361**.

The Chair ruled that Floor Amendment No. 1 was germane to **SB 361.**

Representative Farrow moved the adoption of Floor Amendment No. 1 to **SB 361**.

On the roll call on the adoption of Floor Amendment No. 1 to **SB 361**, the vote was **Yeas 39**–Adams, Altman, Arnold, Ballard, Barrows, Bondurant, Brown, Butler, Cave, L. Clark, P. Clark, Coleman, Crenshaw, DeWeese, Farley, Farrow, Graham, Gray, Hancock, Hatcher, Kerr, LeMaster, Long, Marzian, Mullinix, Noland, Rapier, Rasche, Richards, Sanders, Scott, Simpson, B. Smith, R. Smith, Stengel, Todd, Treesh, Walton, Wayne. **Nays 42**–Ackerson, Adkins, Allen, Bentley, Bowling, Bruce, Bryant, Buis, Burch, Cyrus, Damron, Deskins, Donnermeyer, Ford, Fox, Geveden, Hampton, Harper, Heleringer, Jensen, Johnson, Keith, Little, Maggard, Maricle, Mason, McElroy, Moberly, Napier, Nelson, Nesler, Nunn, Palumbo, Reinhardt, Riggs, Riner, Stacy, Stumbo, Trapp, Turner, Yates, Zimmerman.

Floor Amendment No. 1 to **SB 361** was rejected.

Representative Farrow moved that **SB 361** be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See March 28 , 1994 roll call on **SB 361** - Appendix)

SB 361 was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 361** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 55, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stengel moved the adoption of the Committee Substitute to **SB 55**. Agreed.

Representative Stengel moved that **SB 55**, by way of Committee Substitute, be passed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 55**.

Representative Farrow inquired if Floor Amendment No. 1 was germane to the Committee Substitute to **SB 55**.

The Chair ruled that Floor Amendment No. 1 was not germane to the Committee Substitute to **SB 55**.

Representative Stengel moved that **SB 55**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 78, Nays 4. (See March 28, 1994 roll call on **SB 55** - Appendix)

SB 55, by way of Committee Substitute, was passed and the title agreed to.

Representative Stengel moved that the vote by which **SB 55**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 213, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **SB 213**. Agreed.

Representative Barrows moved that **SB 213**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 28, 1994 roll call on **SB 213** - Appendix)

SB 213, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 213**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 222, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **SB 222**. Agreed.

Representative Stengel moved the adoption to Floor Amendment No. 1 to the Committee Substitute to **SB 222**. Agreed.

Representative Callahan moved that the rules be suspended to act upon Floor Amendment No. 3 to the Committee Substitute to **SB 222**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 222**.

Representative Farrow inquired if Floor Amendment 3 to the Committee Substitute was germane to **SB 222**.

The Chair ruled that Floor Amendment No. 3 to the Committee Substitute was not germane to **SB 222**.

Representative Palumbo moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **SB 222**.

Representative Farrow inquired if Floor Amendment No. 2 to the Committee Substitute was germane to **SB 222**.

The Chair ruled that Floor Amendment No. 2 to the Committee Substitute was not germane to **SB 222**.

Representative Callahan moved that the rules be suspended to act upon Floor Amendment No. 3 to the Committee Substitute to **SB 222** not withstanding that it had been ruled not germane. Rejected.

Representative Lewis moved that **SB 222**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 78, Nays 4. (See March 28, 1994 roll call on **SB 222** - Appendix)

SB 222, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 222**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 232, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Floor Amendment No. 1 to **SB 232**. Agreed.

Representative Lewis moved that **SB 232**, as amended, be passed.

Representative Geveden moved that **SB 232**, as amended, be laid on the Clerk's Desk. Agreed.

Senate Message (Continued)

Announcing passage of **HB 171, HB 231, HB 311, HB 414, HB 469, HB 472, HB 555, HB 580, HB 632, HB 653, HB 738, HB 871, HB 875, HB 888, HB 922, HB 929, HCR 33, HCR 42, HCR 63, HCR 95** and **HCR 96**.

Message received on **HB 388, HB 398, HB 402, HB 455, HB 628, HB 517, HB 741, HB 798, HB 810** and **HB 913**. The Senate has passed **HB 388**, by of Senate Committee Substitute and Senate Floor Amendments, **HB 398**, with Senate Floor Amendment, **HB 402**, with Senate Committee Amendment, **HB 455**, with Senate Floor Amendment, **HB 628**, with Senate Committee Amendment and Senate Floor Amendments, **HB 517**, with Senate Committee Amendments and Senate Floor Amendments, **HB 741**, with Senate Floor Amendment, **HB 798**, with Senate Floor Amendment, **HB 810**, with Senate Floor Amendment, and **HB 913**, with Senate Committee Amendment, and respectfully requests concurrence of this Honorable Body.

HB 302 returned with the following message: The Senate has refused to recede from Senate Committee Amendment No.

2 and is asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Rose, Moloney and Baker. (Time: 6:00 p.m.)

Representative Stumbo moved that the House stand at ease for the Committee on Committees to meet to appoint members of a Conference Committee on **HB 302**. Agreed.

The Chair called the House to order.

The Clerk announced that the Committee on Committees has made the following appointments to a Conference Committee: Representatives Long, Clarke, Rapier, Richards, L. Clark and Noland.

Orders of the Day (Continued)

SB 270, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **SB 270**. Agreed.

Representative Lear moved that **SB 270**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 28, 1994 roll call on **SB 270** - Appendix)

SB 270, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 270**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 278, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **SB 278**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 278**.

Representative Farrow inquired if Floor Amendment No. 1 to the Committee Substitute was germane to **SB 278**.

The Chair ruled that Floor Amendment No. 1 to the Committee Substitute was not germane to **SB 278**.

Representative Lewis moved that **SB 278**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 28, 1994 roll call on **SB 278** - Appendix)

SB 278, by way of Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 278**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 284, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of Committee Amendment No. 1 to **SB 284**. Agreed.

Representative Cyrus moved that **SB 284**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 2. (See March 28, 1994 roll call on **SB 284** - Appendix)

SB 284, as amended, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 284**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 308, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of the Committee Substitute to **SB 308**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 308**. Agreed.

Representative B. Smith moved that **SB 308**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 28, 1994 roll call on **SB 308** - Appendix)

SB 308, by way of Committee Substitute as amended, was passed.

Representative B. Smith moved the adoption of the Floor Title Amendment to the Committee Substitute to **SB 308**. Agreed; and the title was agreed to.

Representative B. Smith moved that the vote by which **SB 308**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Long filed a report of the Conference Committee which stated that they could not agree on Senate Committee Amendment No. 2 to **HB 302** and requested a Free Conference Committee be appointed.

The Chair announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 302**.

SB 331, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 331** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 28 , 1994 roll call on **SB 331** - Appendix)

SB 331 was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 331** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 337, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **SB 337**. Agreed.

Representative Johnson moved that **SB 337**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 28, 1993 roll call on **SB 337** - Appendix)

SB 337, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 337**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Long stated that the Senate did not agree with the House on **HB 455** and moved that the House refuse to concur in Senate Floor Amendment No. 2 to **HB 455**. Agreed.

The Senate Floor Amendment No. 2 to **HB 455** is as follows:

On page 1, beginning with line 1 and ending on page 4, line 19 by deleting the language in its entirety to delete Section 1; and

On page 4, line 20, by deleting "Section 2." and inserting in lieu thereof "Section 1."; and

On page 5, line 15, by deleting "Section 3." and inserting in lieu thereof "Section 2."; and

On page 10, line 3, by deleting "2" and inserting in lieu thereof "*1*"; and

On page 10, by deleting lines 4 and 5; and

On page 10 line 6, by deleting "Section 5." and inserting in lieu thereof "Section 3." and by deleting "Sections 2 and 3" and inserting in lieu thereof "Sections 1 and 2".

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions. Agreed.

Introductions of Bills and Resolutions

HR 117, by Representative Stumbo: A RESOLUTION recommending the designation of Floyd and Martin Counties of Kentucky, and Wayne and Mingo Counties of West Virginia, as a Federal Rural Empowerment Zone and Enterprise Community.

HB 118, by Representative Bryant: A RESOLUTION recommending the designation of Whitley County, Kentucky and Campbell County, Tennessee, as a Federal Empowerment Zone and Enterprise Community.

HR 119, by Representatives Jensen, Gedling, Sanders, Ford, Bruce and Stumbo: A RESOLUTION opposing any increase in the federal excise tax on cigarettes.

Representative B. Smith moved that the vote by which **SB 361** was passed be reconsidered and that it be placed in the Orders of the Day.

On the roll call that the vote by which **SB 361** was passed be reconsidered, the vote was **Yeas 48**--Ackerson, Adams, Adkins, Arnold, Ballard, Bondurant, Brown, Burch, L. Clark, Crenshaw, Curd, Cyrus, Damron, Deskins, Donnermeyer, Farrow, Fox, Gee, Geveden, Graham, Gray, Hampton, Hatcher, Johnson, Lear, Lee, Lewis, Long, Lyne, Mason, McElroy, Moberly, Nesler, Nunn, Rasche, Richards, Ridley, Riggs, Riner, Scorsone, B. Smith, R. Smith, Stengel, Stumbo, Trapp, Turner, Wayne, Zimmerman. **Nays 38**--Allen, Altman, Barrows, Bentley, Bowling, Bruce, Bryant, Buis, Cave, P. Clark, Coleman, DeWeese, Farley, Ford, Gedling, Harper, Heleringer, Jensen, Keith, Kerr, Lile, Lindsay, Maggard, Maricle, Marzian, Morris, Napier, Nelson, Noland, Reinhardt, Sanders, Scott, Shacklette, Simpson, Stacy, Todd, Treesh, Walton.

The motion that the vote by which **SB 361** was passed be reconsidered was adopted.

Representative Riggs moved that the vote by which Floor Amendment No. 1 to **SB 361** was rejected be reconsidered.

Representative Lindsay stated that, since the "Clincher" motion was applied to **SB 361**, it would require approval of a majority of members elected. Therefore, the motion failed.

Representative Morris moved that the vote by which **SB 214** was passed be reconsidered. Agreed.

Representative Lewis moved that **SB 214** be placed in the Orders of the Day for March 29, 1994. Agreed.

Representative Stumbo moved that the rules be suspended to act upon **SB 214**. Agreed.

SB 214, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Floor Amendment No. 1 to **SB 214**. Agreed.

Representative Lewis moved that **SB 214**, as amended, be passed.

Representative Lewis moved the adoption of Floor Amendment No. 2 to **SB 214**.

Representative Lewis moved that the vote by which Floor Amendment No. 1 was passed be reconsidered. Agreed.

Representative Lewis moved the adoption of Floor Amendment No. 2 to **SB 214**. Agreed.

Representative Lewis moved that **SB 214**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 28, 1994 roll call on **SB 214** - Appendix)

SB 214, as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 214**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Donnermeyer moved that the House refuse to recede from the House Committee Substitute to **SB 255**. Agreed.

The Chair announced the appointment of the following members to serve on a Conference Committee on **SB 255**: Representatives Donnermeyer, Callahan and Walton.

Representative Deskins moved the adoption of the following **Legislative Citation No. 142**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to David Hawpe in recognition of his induction to the Kentucky Journalism Hall Of Fame. David Hawpe, started his career in the Courier Journals' Hazard Bureau, he rose to become Editor in 1987. His nose for news, perception for good story lines and determination to serve the people of Kentucky with firsthand information and sensational headlines earned him his induction, April 18, 1994, to the Kentucky Journalism Hall Of Fame. The entire membership joins Representative Herbie Deskins in congratulating this distinguished gentleman on this illustrious induction and in extending its very best wishes on this memorable occasion.

Representative B. Smith moved the adoption of the following **Legislative Citation No. 143**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Maresa and Randy Fawns in recognition of the birth of their 6lbs\11oz son Joseph Thomas Fawns. On this joyful occasion the entire membership joins with Representative Billy Ray Smith in celebrating the birth of Joseph Thomas Fawns. We extend our sincerest congratulations to the proud parents, Maresa and Randy, and our very best wishes for a life time of joy and happiness.

Representative Ford moved that **HR 116** be adopted.

The Chair ruled that the motion to adopt **HR 116** was out of order.

Representative Fox moved that the rules be suspended to withdraw Floor Amendment No. 10 to **SB 62**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that he be recorded as voting "yea" on **SB 222**. Agreed.

Representative Fox moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Fox moved that he be recorded as voting "nay" on **HCR 104**. Agreed.

Representative B. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that his vote be changed from "nay" to "yea" on **SB 246**. Agreed.

Representative Harper moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Harper moved that he be recorded as voting "nay" on Floor Amendment No. 1, Floor Amendment No. 3, Floor Amendment No. 5, Floor Amendment No. 7, Floor Amendment No. 8 on **SB 136** and Floor Amendment No. 2 on **SB 247**. Agreed.

Representative Harper moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Harper moved that he be recorded as voting "yea" on **SB 74, SB 80, SB 100, SB 151, SB 154, SB 185, SB 199, SB 245, SB 303, SB 320, SCR 86, SJR 68, HB 814, SB 238, HB 41, HB 64, HB 84, HB 95, HB 115, HB 183, HB 191, HB 225, HB 239, HB 315, HB 387, HB 546, HB 558, HCR 99, HCR 100, HCR 101, HCR 102, HCR 108, SB 92, SB 112, SB 132, SB 133, SB 136, SB 153, SB 157, SB 172, SB 205, SB 225, SB 243, SB 266, SB 268** and **SB 307**. Agreed.

Announcements

The Clerk announced the following meetings:

Budget Review Subcommittee Chairmen, upon adjournment, Speaker's Office

Transportation, 1:00 p.m., March 29, 1994, Room 129

Conference Committee on Budget, 9:00 a.m., March 29, 1994

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 29, 1994.

On the roll call the vote was **Yeas 83**–Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bondurant, Bowling, Brown, Bryant, Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Jensen, Johnson, Kerr, Lear, Lee, Lewis, Lindsay, Little, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 5**–Hatcher, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, MARCH 29, 1994

FIFTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Chuck Goodman, First Presbyterian Church, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Senate Message

Announcing passage of **HB 127, HB 276, HB 300, HB 334, HB 482, HB 519, HB 539, HB 631, HB 633, HB 643, HB 656, HB 685, HB 733 HB 744, HB 760 HB 814, HB 815, HB 826, HB 855, HB 890, HCR 74, HJR 82, HJR 91** and **HCR 108**.

Message received on **HB 275, HB 299, HB 301, HB 312, HB 390, HB 459, HB 483, HB 513, HB 712, HB 775, HB 891, HB 898** and **HB 928**. The Senate has passed **HB 275**, by way of Committee Substitute with Senate Floor Amendment, **HB 299**, with Senate Committee Amendment, **HB 301**, by way of Committee Substitute, **HB 312**, by way of Committee Substitute, **HB 390**, by way of Senate Committee Substitute with Senate Committee Amendment, **HB 459**, by way of Senate Committee Substitute, **HB 483**, with Senate Committee Amendment, **HB 513**, with Senate Committee Amendment and Senate Floor Amendment, **HB 712**, with Senate Committee Amendment and Senate Floor Amendment, **HB 775**, with Senate Floor Amendments, **HB 891**, with Senate Committee Amendment, **HB 898**, with Senate Floor Amendment, and **HB 928**, by way of Senate Committee Substitute and Senate Floor Amendment, and respectfully requests concurrence of this Honorable Body.

SB 255 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 255**: Senators Meyer, Rand and Roeding.

HB 302 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 302**: Senators Moloney, Rose, Karem, Berger, Baker and Kelly.

HB 455 returned with the following message: The Senate has refused to recede from Senate Floor Amendment No. 2 to **HB 455** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Rose, Moloney, and Baker.

SB 119 returned with the following message: The Senate has concurred in House Committee Amendment No. 1 and House Floor Amendment No. 2 to **SB 119**, but refused to concur in House Floor Amendment No. 4 to **SB 119** and respectfully returns it with the request that this Honorable Body recede from Floor Amendment No. 4.

SB 162 returned with the following message: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 162** and respectfully returns it with the request that this Honorable Body recede from the Amendment. (Time: 2:05 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 171, HB 231, HB 311, HB 414, HB 469, HB 472, HB 555, HB 580, HB 632, HB 653, HB 738, HB 871, HB 875, HB 888, HB 922, HB 929, HCR 33, HCR 42, HCR 63, HCR 90, HCR 95, HCR 96** and **HB 499** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:08 p.m.)

HB 171, HB 231, HB 311, HB 414, HB 469, HB 472, HB 555, HB 580, HB 632, HB 653, HB 738, HB 871, HB 875, HB 888, HB 922, HB 929, HCR 33, HCR 42, HCR 63, HCR 90, HCR 95, HCR 96 and **HB 499** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 1994 at 2:30 p.m.

Representative McElroy moved that the reading of the Journal of March 28, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Lile moved that the rules be suspended to allow floor privileges to former House member, Jim Dunn. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 52, SB 164, SB 170, SB 246, SB 289, SB 305, SB 314, SB 343, SB 344, SB 367, SCR 74, SJR 82,** and **SCR 84** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:15 p.m.)

Floor Amendments

Floor Amendment No. 13 to **SB 62**, by Representative B. Smith:

On page 104, line 22, after "year.", by adding "***The assessment program shall not include more than one (1) portfolio at the fourth grade level which shall be a writing portfolio and there shall be a math portfolio required for the fifth grade.***"

Introduction of Bills and Resolutions

HR 120, by Representative Bentley: A RESOLUTION in recognition of Arbor Day and honoring the Kentucky Wood Industry.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Education: **SCR 104**

Report of Committees

The Committee on Rules reported that **HB 755** has been posted for passage in the Orders of the Day for March 29, 1994.

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Hancock moved the adoption of the following **Legislative Citation No. 145**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest condolences and expressions of sympathy to The Lawrence Winchester Wetherby Family. Lawrence Winchester Wetherby, governor of Kentucky during 1950-55. While in office Wetherby was known for increasing both teachers' salaries and benefits to the needy and to government employees. Later, he created a separate Department of Mental Health, supported enactment of the first state law to regulate strip mining, and began construction of toll roads and a new state fair grounds. Wetherby supported the Supreme Court's desegregation order and urged its peaceful implementation as the law of the land. On this mournful occasion this prestigious body joins with Representative C. M. "Hank" Hancock in memory of a great statesman with vision and foresight.

A Conference Committee Report was filed on **SB 255**.

Representative Collins moved that the rules be suspended to have his name added as a co-sponsor to **HR 117**. Agreed.

Representative Long requested a Conference Committee be appointed on **HB 455**.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 455**: Representative Long, Chair; Representatives Rapier, Richards, Clarke, L. Clark and Noland.

Representative Donnermeyer moved that the Conference Committee Report on **SB 255** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to the Free Conference Committee on **SB 255**: Representatives Donnermeyer, Callahan and Walton.

Representative Coleman moved the adoption of the following **Legislative Citation No. 151**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes, commends and congratulates Joseph Phillip Thomas – House of Representatives Constitutional Page for your astounding accomplishments in academics, sports and the creative arts. This sound and gifted young person, Joseph Phillip Thomas, is to be commended for his ability to focus his energy on improving himself through education. This prestigious body recognizes one of our own Constitutional Pages, congratulates him for his remarkable achievements and his steadfast belief in the good Lord. We would also like to extend our most sincere wishes for his continued success.

Representative R. Smith moved the adoption of the following **Legislative Citation No. 152**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds Representative John Will Stacy as the result of forty one spectacular years of "Stacy Style" Morgan County politics at its most interesting. Whereas, during his freshman year in the House of Representatives, Representative Stacy has succeeded in propelling his special interest into the legislative limelight; whereas the gentleman from Morgan supports that old adage that where there's tobacco smoke, there's fire and the gentleman has spent extraordinary care in putting those fires fueled with poppycock; and whereas the honorable gentleman is not necessarily an expert on poppy; this prestigious body still recognizes the exemplary effort made by said birthday recipient and commends his usual tenacity and wishes him a very special birthday.

Orders of the Day

Representative Stumbo moved that the rules be suspended to act upon **SB 271**. Agreed.

SB 271, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **SB 271**. Agreed.

Representative Cyrus moved that **SB 271**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 29, 1994 roll call on **SB 271** - Appendix)

SB 271, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 271**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Noland moved that the rules be suspended to withdraw Floor Amendment No. 2 and Floor Title Amendment to **SB 256**. Agreed.

A Free Conference Committee Report was filed on **SB 255**.

HB 203, with Senate Committee Substitute, Senate Committee Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 203** is as follows:

HB 203, AN ACT relating to employee benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) Employees participating in one (1) of the state administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System***, a state operated school under Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System who*** [~~to~~] work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employee or the school board may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. ***If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees*** [~~Members who have service credit prior to July 1, 1992, or their employers, may purchase service credit for previous years if payment is made by August 1, 1993~~].

(3) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

Section 2. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. ***If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit.*** The provisions of

KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. Payment may be by lump sum or the employee may pay by increments.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months service or, if younger, who has sixty (60) months service may purchase credit in the Kentucky Employees Retirement System for up to ten (10) years service that was credited to a state administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) Any employee participating in the County Employees Retirement System and determined to be in a hazardous position, who has sixty (60) or more months of service, may purchase credit in the County Employees Retirement System for up to ten (10) years of service that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible under subsection (16)(h) of this section and to the extent permitted by other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

Section 3. The amendment of KRS 61.552 in Section 2 of this Act shall be retroactive to January 1, 1990, with respect to the right of a beneficiary to repay refunds, but the benefits related to service credit regained thereby shall be payable only after the repayment.

Section 4. Whereas the purpose of Section 2 of this Act is to alleviate hardships for retirees and beneficiaries and it is the desire of the General Assembly not to prolong unnecessary hardship, an emergency is declared to exist, and Section 2 of this Act shall become effective upon its passage and approval by the Governor.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 203** is as follows:

On page 11, line 24, after "Section 3." by inserting the following:

KRS 61.554 is amended to read as follows:

Notwithstanding KRS 61.520, effective January 1, 1994. persons employed ***for the first time as General Assembly employees*** by the Legislative Research Commission ***after July 1, 1994, shall not be eligible for membership in the Kentucky Employees Retirement System until they have worked for at least six (6) legislative bienniums. After a General Assembly Employee has worked for six (6) bienniums the employee may purchase service credit for the months worked, by a delayed contribution payment, and may purchase service credit at the close of each session worked thereafter by a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer***[~~ for at least six (6) legislative bienniums shall be included in the provisions of KRS 61.552 for purposes of purchasing credit for service performed after January 1, 1960~~]; and

On page 11, line 24, renumber the former "Section 3" to read "Section 4"; and

On page 12, line 1, renumber "Section 4" to read "Section 5"; and

On line 1, replace "Section " with Sections; and

On line 1, after "2" by inserting "and 3"; and

On line 3, replace "Section" with Sections; and

On line 3, after "2" by inserting "and 3".

The Senate Floor Amendment No. 3 to the Senate Committee Substitute to **HB 203** is as follows:

On page 8, line 5, by inserting after the word "leave" the following;

"***, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System,***"; and

on page 10, line 24, by inserting after "the" the words "***state-administered***"; and

on page 10, line 24, by inserting an opening bracket before the word "administered"; and

on page 10, line 25, by inserting a closing bracket after the word "Systems" and by striking through the language within the brackets; and

on page 10, line 27, by inserting after the word "service" the words "***in a regular full-time position***"; and

on page 11, line 1, by inserting after the first use of the word "state" the words "***or local government***"; and

on page 11, line 8, by inserting an opening bracket before "and"; and

on page 11, line 9, by inserting a closing bracket after "position" and by striking through the language within the brackets; and

on page 11, line 11, by inserting after "service" the words "***in a regular full-time position***"; and

on page 11, line 23, by inserting thereafter the following:

"Section 3. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

  (a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

  (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require ~~[without limitations of KRS 45A.045]~~;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section***. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board***;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

~~[(d) The state local finance officer shall have an initial term beginning on April 1, 1992.]~~

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the commissioner of personnel or the state local finance officer resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) ***(a)*** Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) ***A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction*** [~~No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude~~].

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; [~~and~~]

(e) ***Expend funds for goods and services pursuant to the provisions of KRS Chapter 45A as they apply to state agencies, but if the board designates an emergency by letter to the secretary of the Finance and Administration Cabinet, the secretary shall within thirty (30) days of submission approve or reject a proposed personal service contract submitted to him by the board pursuant to KRS 45A.045. If the secretary rejects the proposed contract, he shall provide a detailed written statement of his reasons therefor. If the secretary fails or refuses to act within the thirty (30) day period, the proposed contract shall be deemed approved without further action pursuant to KRS 45A.045; and***

(f) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, the provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) (a) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with the administrative regulation promulgated by the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court within thirty (30) days of the final order. No new or additional evidence shall be introduced and the court shall decide the case upon the record as attested.

(b) In the discharge of its duties, the board or its delegate may conduct hearings, administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, documents, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of the systems. A subpoena shall be served in the same manner as a subpoena issued by a Circuit Court, and the sheriff, if he serves the subpoena, shall receive the same fee as provided by law for like service in civil actions. In case of refusal to obey a subpoena issued to any person, any Circuit Court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to comply with the terms of the subpoena. Failure to obey the order of the court may be punished as contempt of court.

(c) Each formal hearing shall be recorded. The system may utilize video equipment to record and preserve the proceeding at its hearings in lieu of a transcript, and the videotape shall constitute the official record. A copy of the transcript, if prepared, or the videotape shall be made available on the written request or motion of any party or by order of the hearing officer. Unless otherwise agreed, the party requesting the transcript or videotape shall provide payment for the original, and all others desiring copies shall pay the cost thereof. When certified as a true and correct copy of the testimony by the system, the transcript or videotape shall constitute the official transcript of the evidence.

Section 4. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations

required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also submit a complete description of the job and duties from which he received his last pay;

(b) The employer shall submit a complete description of the job and duties for which the employee was last paid;

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office;

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office;

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval;

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee;

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to submit additional medical information to the retirement office or to appeal his denial for disability benefits by requesting a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing;

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by an order or determination of the system may request that a hearing be conducted by the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may request a de novo formal hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, unless upon resubmitting his request, he can prove to the system a substantial change in his condition. This paragraph shall not limit the member's right to appeal to a court.

(c) Upon request pursuant to subsection (2)(g) of this section, the system shall schedule a hearing to be held not more than sixty (60) days after the notice of demand for a hearing has been received by the system, unless an extension is granted by the hearing officer for good cause shown. The hearing officer may recommend a favorable determination based upon the information in the member's file available prior to the hearing. If the recommended favorable action is approved, the hearing shall be canceled. The hearing officer shall not extend the time for a hearing beyond a total of one hundred twenty (120) days. The notice of hearing shall be served in accordance with subsection (6) of this section and shall include a statement of the time, place, and nature of the hearing.

(d) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(e) All formal hearings shall be de novo as to all issues of fact and law, and those findings previously adjudicated by a final order of the system following a formal hearing shall be binding against any party or parties to subsequent formal hearings. Any party to a hearing may be represented by counsel, make oral or written argument, offer testimony, orally or by deposition, cross-examine witnesses, introduce direct testimony from a physician or other expert approved by the hearing officer through a written report, or take any combination of such actions. The system or the member may compel the production of documents by the issuance of subpoenas pursuant to KRS 61.645. Witness testimony may be given by deposition in lieu of personal appearance. An impartial hearing officer appointed and paid by the board shall preside at the hearing, shall keep order, and shall conduct the hearing in accordance with reasonable administrative practice. Oaths and affirmations shall be administered by the hearing officer or court reporter. The hearing officer shall permit any party to represent himself. Failure to appear without good cause or failure to comply with any prehearing or interlocutory order of the hearing officer shall be grounds for a default.

(f) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted, unless precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the system's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data; and they shall be afforded an opportunity to contest the material so noticed. The system's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(g) Each formal hearing shall be recorded, and a transcript made available on the motion of any party or by order of the hearing officer. Unless otherwise agreed, the party requesting the transcript shall provide payment for the original, and all others desiring copies shall pay the cost thereof. When certified as a true and correct copy of the testimony by the system, the transcript shall constitute the official transcript of the evidence. ***The system may utilize video equipment to record and preserve the proceedings at its hearings in lieu of a transcript, and the videotape shall constitute the official record. A copy of the transcript, if prepared, or the videotape shall be made available on the written request or motion of any party or by order of the hearing officer.***

(h) The hearing officer shall make a determination after hearing and based on a preponderance of the evidence appearing in the record as a whole. The hearing officer shall prepare findings of fact and conclusions of law and may recommend an approval or a reduction, discontinuance or denial of disability benefits pursuant to subsection (2)(g) of this section or KRS 61.615(1).

(i) The hearing officer shall, within thirty (30) days of the close of the formal hearing make a report and a recommended order to the board. The report and recommended order shall contain the appropriate findings of fact and conclusions of law. If the board finds upon written request of the hearing officer that additional time is needed, the board may grant a reasonable extension. The hearing officer shall mail, postage prepaid, a copy of his report and recommended order to all parties. The parties may file within fourteen (14) days of receipt of the hearing officer's report and recommended order exceptions to the report and recommended order.

(j) The board shall consider the report and recommended order and any exceptions filed and pass upon the case within a reasonable time in accordance with the administrative regulations adopted by the board. The board may remand the matter to the hearing officer, adopt the report and recommended order of the hearing officer as the system's final order, or issue their own final order.

(k) The system shall mail the final decision of the board to the member or his legal representative. If any extension of time is granted by the board for a hearing officer to complete his report, the system shall notify the member or his legal representative at the time of the granting of the extension.

(l) The board shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) extensions shall be granted.

(m) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(n) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(o) There shall be no ex parte communications between the parties or representatives of the parties and the hearing officer regarding a particular member.

(p) Formal hearings shall be held at the system's office in Frankfort unless another location is determined by the hearing officer.

(q) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing suit in the Franklin Circuit Court within thirty (30) days after the requester receives notice, as described in subsection (6) of this section, of the board's determination. No new or additional evidence shall be introduced in that proceeding and the court shall hear the case upon the record as attested.

(6) Any notice or order reducing, discontinuing, or denying disability benefits shall be served by one (1) of the following methods:

(a) The system may place a copy of the document to be served in an envelope, and address the envelope to the member to be served at the address of the member existing in the system files or at the address set forth in written instructions furnished by the member or his legal representative. The system shall affix adequate postage and place the sealed envelope in the United States mail as certified mail return receipt requested. The system shall forthwith enter the fact of mailing in the record and make an entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, that fact shall be entered in the record. The system shall file the return receipt or returned envelope in the record. Service by certified mail is complete upon delivery of the envelope. The return receipt shall be proof of the time, place, and manner of service.

(b) The system may cause the document, with necessary copies, to be transferred for service to any person authorized by the system or by any statute or rule to deliver them, who shall serve the documents, and the return endorsed thereon shall be proof of the time and manner of service.

(c) The methods of service specified by this statute shall be supplemental to and shall be accepted as an alternative to any other method of service specified by other applicable law.

(7) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 5. KRS 61.670 is amended to read as follows:

(1) As soon as practicable after its organization, the board shall adopt the actuarial tables necessary for the administration of the system and for the annual determination of assets and liabilities of the system. The board shall cause an actuarial valuation to be made annually. The valuation shall include a description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience. At least once in each ten (10) year period, the board shall cause an actuarial investigation to be made of all the experience under the retirement system. Pursuant to the investigation the board shall, from time to time, revise the actuarial tables previously adopted by the board and shall thereupon revise the bases of the rates of contributions required under KRS 61.510 to 61.692 and 16.505 to 16.652 and 78.510 to 78.852. All the investigations and valuations shall be certified to the board by a fellow of the Society of Actuaries.

(2) A copy of each ten (10) year actuarial investigation and annual valuation shall be forwarded to the Legislative Research Commission. The annual valuation shall be forwarded no later than ten (10) days after receipt by the board.

(3) The Legislative Research Commission shall employ an actuary with the same qualifications as the actuary employed by the board, and the board shall, free of charge, provide the actuary employed by the Commission with the same data provided to its own actuary, and any supplementary data he may require. The actuary employed by the Commission shall review the assumptions, determinations and recommendations of the board actuary, and legislative proposals related to the retirement systems, and report his findings to the Commission and to the board. The board shall pay fifty percent (50%) of the cost of the Commission's actuary, and the Commission shall pay the other fifty percent (50%).

Section 6. KRS 61.691 is amended to read as follows:

(1) [~~The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged~~

~~over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.~~

~~(2)~~] Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been issued. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.

(2) [~~(3)~~] Effective August 1, 1990, and July 1, 1991, a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by two and nine-tenths percent (2.9%).

(3) [~~(4)~~] A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

Section 7. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, ***Kentucky Retirement Systems board of trustees,*** Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the State Board for Elementary and Secondary Education, the State Board for Adult and Technical Education, and any other management personnel with procurement authority;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

  (a) The Governor;
  (b) The Lieutenant Governor;
  (c) The Secretary of State;
  (d) The Attorney General;
  (e) The Treasurer;
  (f) The Commissioner of Agriculture;
  (g) The Superintendent of Public Instruction;
  (h) The Auditor of Public Accounts;
  (i) Each Railroad Commissioner; and
  (j) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "State agency" means every state office, department, division, board, commission, institution, public corporation, and authority within the executive branch;

(11) "Lobbyist" means any person employed as a legislative agent or legislative counsel to promote, oppose, or act with reference to any legislation which affects, or may affect, private pecuniary interests, as distinct from those of the whole people;

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts with reference to legislative action; and

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (i) of this section.

Section 8. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status ***in one (1) of the state-administered retirement systems*** who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after January 1, 1984. In the event this service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit."; and

on page 11, line 24, by deleting "Section 3." and by substituting therefor "Section 9."; and

on page 12, line 1, by deleting "Section 4." and by substituting therefor "Section 10."; and

on page 12, line 4, by adding thereafter the following:

"Section 11. The amendment of KRS 61.645(3)(a) in Section 3 of this Act which limits members of the Kentucky Retirement Systems board of trustees to three consecutive terms shall not be interpreted to interrupt the term of any member currently serving on the board, and shall take effect on June 30, 1995.

Section 12. The amendment of KRS 61.691 in Section 6 of this Act shall take effect on June 30, 1996.".

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 203** is as follows:

On page 1, by amending the title to read "AN ACT relating to employee benefits and declaring an emergency".

Representative Lewis moved that the House concur in the Senate Committee Substitute to **HB 203**. Agreed.

Representative Lewis moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 203**. Agreed.

Representative Lewis moved that the House concur in Senate Floor Amendment No. 3 to the Senate Committee Substitute to **HB 203**. Agreed.

Representative Lewis moved that **HB 203** by way of Senate Committee Substitute as amended by the Senate, be passed.

Representative Lewis moved that the House concur in the Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 203**. Agreed.

Representative Lewis moved that **HB 203** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 4. (See March 29, 1994 roll call on **HB 203** - Appendix)

HB 203, by way of Committee Substitute as amended by the Senate, was passed and the title agreed.

Representative Lewis moved that the vote by which **HB 203**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 34, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 34** is as follows:

On page 2, line 27, by deleting the bracket and strikethroughs; and

On page 3, line 1, by deleting the strikethroughs from the words "family dwelling"; and after "dwelling", by inserting the following:

"***located in a county in which there is no urban-county government or cities of the first through third class;***" and

On page 3, line 1, by deleting the strikethroughs from the word "except"; and after "except" by inserting "***that single family dwellings***"; and by inserting opening and closing brackets around "~~[those]~~"; and after "~~[those]~~" by deleting the strikethroughs from the words "sold or constructed under a trade or brand name.", and after "name" by inserting "***shall comply with this chapter***"; and

On page 3, by deleting the strikethroughs and bracket on lines 2 through 5; and

On page 3, line 6, by deleting "***(5)***" and removing the brackets and strikethroughs from "(6)"; and on line 9, by deleting "***(6)***" and removing the brackets and strikethroughs from "(7)"; and on line 26, by deleting "***(7)***" and removing the brackets and strikethroughs from "(8)"; and

On page 4, line 3, by deleting "***(8)***" and removing the brackets and strikethroughs from "(9)"; and on line 7, by deleting "***(9)***" and removing the brackets and strikethroughs from "(10)"; and on line 11, by deleting "***(10)***" and removing the brackets and strikethroughs from "(11)"; and on line 13 by deleting "***(11)***"; and removing the brackets and strikethroughs from "(12)"; and on line 16, by deleting "***(12)***" and removing the brackets and strikethroughs from "(13)"; and on line 17, by deleting "***(13)***" and removing the brackets and strikethroughs from "(14)"; and

On page 5, line 3, by deleting "***(14)***" and removing the brackets and strikethroughs from "(15)"; and on line 6, by deleting "***(15)***" and removing the brackets and strikethroughs from "(16)"; and on line 25, by deleting "***(16)***" and removing the brackets and strikethroughs from "(17)"; and

On page 6, line 17 by deleting "***(17)***" and removing the brackets and strikethroughs from "(18)"; and on line 20, by deleting ***(18)***" and removing the brackets and strikethroughs from "(19)"; and

On page 7, line 9, by deleting "***(19)***" and removing the brackets and strikethroughs from "(20)"; and on line 10, by deleting "***(20)***" and removing the brackets and strikethroughs from "(21)"; and on line 20, by deleting "***(21)***" and removing the brackets and strikethroughs from "(22)"; and on line 22, by deleting "***(22)***" and removing the brackets and strikethroughs from "(23)"; and

On page 8, line 3, by deleting "***(23)***" and removing the brackets and strikethroughs from "(24)"; and

On page 8, line 8, by deleting "***198B.010(11)***"; and on line 9, by deleting the brackets and strikethroughs from "198B.010(12)".

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 34**. Rejected.

HB 511, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 511** is as follows:

On page 63, lines 17 and 18, delete "*an officer or employee*", and substitute in lieu thereof "*a public servant*";

On page 63, line 18, after "*Development*", insert the following: "*or by any other public servant working directly with the cabinet on an economic incentive package*";

On page 63, line 20, delete "*officer or employee*", and substitute in lieu thereof "*public servant*";

On page 63, line 21, delete "*officer or employee*", and substitute in lieu thereof "*public servant*";

On page 63, lines 23 to 27, delete remainder of the subsection after "*include*" on line 23, and substitute in lieu thereof: "*requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars ($25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development*"; and

On page 64, line 23, after "*in*", delete "*KRS 11A.201(5)*", and substitute in lieu thereof "*KRS 11A.201(5)(a)*";

On page 64, line 26, after "*agent*" delete "*, officer, or employee*", and substitute in lieu thereof "*or public servant*", and after "*Development*", delete "*or*" and insert in lieu thereof a comma "*, any*";

On page 64, line 27, after "*cabinet*", and before the period "*.*" insert: "*, or any other public servant involved in the negotiation of the economic incentive package*";

On page 65, before line 1, insert the following:

"*(3) After final action by the board or authority, the Cabinet for Economic Development shall file the disclosure statement described in subsection (2) of this section with the Executive Branch Ethics Commission, but the cabinet may delete information identifying the beneficiary of the economic-incentive package if the cabinet believes that identification would damage economic development.*";

On page 65, line 1, delete "*(3)*", and insert in lieu thereof "*(4)*"; and

On page 65, line 11, delete "*(4) Subsection (3)*", and insert in lieu thereof "*(5) Subsection (4)*".

Representative Lear moved that the House concur in Senate Committee Amendment No. 1 to **HB 511**. Agreed.

Representative Lear moved that **HB 511**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 29, 1994 roll call on **HB 511** - Appendix)

HB 511, as amended by the Senate, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 511**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 158, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 158** is as follows:

On page 5, after line 5, by inserting the following new sections:

"Section 3. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph.	Prima Facie or Maximum Speed											
Over Limit	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18

9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule, the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to Section 6 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Section 5 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord research trust fund created pursuant to Section 6 of this Act. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of Sections 4 to 6 of this Act.

(3) The terms of board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 1995;

(b) Two (2) on June 30, 1996;

(c) Two (2) on June 30, 1997; and

(d) One (1) on June 30, 1998.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of Sections 4 to 6 of this Act.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for Human Resources for administrative purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Kentucky Spinal Cord and Head Injury Research Board shall:

(1) Formulate policies and procedures necessary to carry out the provisions of Sections 4 to 6 of this Act;

(2) Promulgate administrative regulations necessary to carry out the provisions of Sections 4 to 6 of this Act and to ensure proper expenditure of state funds appropriated for the purposes of Sections 4 to 6 of this Act;

(3) Review and authorize spinal cord and head injury research projects and programs to be undertaken and financed under the provisions of Sections 4 to 6 of this Act;

(4) Review and approve all progress and final research reports on projects authorized under the provisions of Sections 4 to 6 of this Act;

(5) Ensure that state funds, appropriated for spinal cord and head injury research by Section 6 of this Act or any other act, are not diverted to any other use; and

(6) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 30 of each year showing the status of funds appropriated under the provisions of Section 6 of this Act for spinal cord and head injury research and the progress of the board in terms of the results of its spinal cord and head injury research efforts.

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The revenues received from the additional penalties imposed by KRS 189.394(5) and the penalties imposed for violations of KRS 189.125 shall be credited to the spinal cord and head injury research trust fund which is hereby created.

(2) Federal funds or other funds which may be made available to supplement or match state funds for spinal cord and head injury research programs provided for by Sections 4 to 6 of this Act shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the spinal cord and head injury research trust fund shall be used to finance the spinal cord and head injury research programs authorized under the provisions of Sections 4 to 6 of this Act and for the operation of the Kentucky Spinal Cord and Head Injury Research Board. Funds for research shall only be used for spinal cord and head injury research undertaken by the University of Kentucky or University of Louisville.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, but any surplus shall be included in the budget considered and approved by the board for the ensuing period.".

Representative Lear moved that the House concur in Senate Floor Amendment No. 1 to **HB 158**. Agreed.

Representative Lear moved that **HB 158**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 67, Nays 26. (See March 29, 1994 roll call on **HB 158** - Appendix)

HB 158, as amended by the Senate, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 158**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 562, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 562** is as follows:

HB 562, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If an insurer has indicated its willingness to renew a policy providing coverage for loss or damage under a property or casualty policy by mailing or delivering to the named insured, at his last known address, a notice of the renewal premium amount and the amount was not paid on or before the anniversary due date, the insurer may, in the absence of an increase in the risk insured, reinstate the expired policy upon the written request of the insured if the insured has not purchased replacement coverage and the request for the reinstatement is made within thirty (30) days following expiration. The insurer shall not require, as a condition for reinstatement, an increase in coverage amount or the premium charge above that which was stated in its renewal offer.

Section 2. KRS 304.14-040 is amended to read as follows:

(1) An employer or the employer's trustee may procure and effect an insurance contract upon the life or body of an employee for the purpose of funding a pension or other benefit plan established for the employee of the employer. ***Except as provided in subsection (4) of this section,*** no employer, nor employer's trustee, shall procure or cause to be procured any insurance contract on the life or body of an employee unless the benefits under the contract are payable to and utilized by an employee pension or other benefit plans. Nothing in this subsection shall be construed to require the employer or the employer's trustee to use or designate the benefits of any employee insurance contract for the specific benefit of the estate of the particular insured on whose life or body the insurance contract producing the benefits was procured.

(2) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. No person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under ***the*** [~~such~~] contract are payable to the individual insured or his personal representatives, or to a person having, at the time when ***the*** [~~such~~] contract was made, an insurable interest in the individual insured.

(3) If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover ***the*** [~~such~~] benefits from the person so receiving them.

(4) "Insurable interest" as to ***the*** [~~such~~] personal insurance means that every individual has an insurable interest in the life, body and health of himself, and of other persons as follows:

  (a) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

  (b) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; [~~and~~]

  (c) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in ***the*** [~~such~~] shares, has an insurable interest in the life, health or bodily safety of each individual party to ***the*** [~~such~~] contract for the purpose of ***the*** [~~such~~] contract only, in addition to any insurable interest which may otherwise exist as to ***the*** [~~such~~] individual***; and***

  (d) Any domestic or foreign corporation which provides its active or retired employees with benefits under a retirement or other employee benefit plan governed by the Federal Employee Retirement Income Security Act of 1974, as amended, has an insurable interest in the life, health, or bodily safety of any active or retired employee of the corporation or of any of its subsidiaries who is covered by a plan, and any trustee of a trust established by the corporation for the sole benefit of the corporation shall have the same insurable interest in the employee as the corporation itself.

(5) An insurer shall be entitled to rely upon all statements, declarations and representations made by an individual applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

Section 3. KRS 304.14-080 is amended to read as follows:

No life or health insurance contract upon an individual, except a contract of group life insurance or of group or blanket health insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured having the power to contract as provided in KRS 304.14-070 applies therefor or has consented thereto in writing, except in the following cases:

(1) A spouse may effectuate ***the*** [~~such~~] insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to ***the*** [~~such~~] minor.

(3) Family policies may be issued insuring any two (2) or more members of a family on an application signed by either parent, a step-parent, or by a husband or wife.

Representative B. Smith moved that the House concur in Senate Committee Substitute to **HB 562**. Agreed.

Representative B. Smith moved that **HB 562**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 29, 1994 roll call on **HB 562** - Appendix)

HB 562, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 562**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 331** and **SB 361** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:57 p.m.)

A Conference Committee Report was filed on **HB 455**.

Orders of the Day (Continued)

HB 256, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 256** is as follows:

HB 256, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the State Board for Elementary and Secondary Education, and the Council on Higher Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the

Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 2. KRS 158.6453 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. ***The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.*** The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;

(b) Direct the development of the interim and full-scale assessment program; and

(c) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress.

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations.

Section 3. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) The State Board for Elementary and Secondary Education shall promulgate administrative regulations to establish a system of determining successful schools and dispensing appropriate rewards. The system shall be based on the following:

(a) A school shall be the unit of measure to determine success;

(b) School success shall be determined by measuring a school's improvement over a two (2) year period;

(c) A school shall be rewarded for an increased proportion of successful students, including those students who are at risk of school failure;

(d) A threshold level for school improvement shall be established by the board to determine the amount of success needed for a school to receive a reward. The threshold definition shall establish the percentage of increase required in a school's percentage of successful students as compared to a school's present proportion of successful students, with consideration given to the fact that a school closest to having one hundred percent (100%) successful students will have a lower percentage increase required;

(e) Rewards shall be given to the school on behalf of the full-time, part-time, and itinerant instructional staff of a school who generate the reward when the school achieves at least one percent (1%) gain over its threshold as defined in paragraph (d) of this subsection. Substitute teachers shall not be used in calculating the reward;

(f) Rewards shall be calculated by applying the percentage set by the General Assembly in the biennial budget to the current annual salary of each certified staff person employed in the school on the last working day of the year of the reward. The reward for part-time and itinerant staff shall be calculated for the proportion of time spent in the school. In determining the percentage to be applied to a school for calculation of the rewards for the school's staff, consideration shall be given to the fact that schools already having a high percentage of successful students shall have a lower requirement for a percentage increase in its number of successful students. The staff person's identity in connection to his share of the reward shall be maintained when his share of the reward is deposited to the school's account;

(g) The certified staff members shall by majority rule collectively decide on the ways the reward funds shall be spent. Each individual staff person shall use the amount he earned in accordance with the decisions made by the total staff. Rewards shall not be added to a staff person's base salary and shall not be defined as compensation for retirement purposes under KRS 161.220(10); and

(h) The Department of Education shall send the school's reward to the local district office for transmittal to the school.

(2) The State Board for Elementary and Secondary Education, after adopting the goals of the Council on School Performance Standards and determining the definition of a successful student, shall adopt by administrative regulation the formula to be used to determine successful schools. The formula shall be a calculus of factors which reflect the school ***goals*** ~~[outcomes]~~ described in KRS 158.6451***, except there shall be no measurement of the goals included in subsection (1)(b)3 and (1)(b)4***.

(3) A school that does not reach its threshold level as defined in paragraph (d) of subsection (1) of this section but maintains the previous proportion of successful students shall be required to develop a school improvement plan and shall be eligible to receive funds from the school improvement fund pursuant to KRS 158.805. A school that does not reach its threshold level but maintains the previous proportion of successful students after the second biennial review shall be required to meet the provisions of subsection (4) of this section.

(4) A school in which the proportion of successful students declines by less than five percent (5%) shall be required to develop a school improvement plan, shall be eligible to receive funds from the school improvement fund, and shall have one (1) or more Kentucky distinguished educators assigned to the school to carry out the duties as described in KRS 158.782. If the school does not meet its original threshold after the next biennial review ***or after the 1996-98 biennial review, whichever is later***, the school shall be subject to the requirements of subsection (5) of this section.

(5) A school in which the proportion of successful students declines by five percent (5%) or more ***in any biennium beginning with the 1994-96 biennium*** shall be declared by the State Board for Elementary and Secondary Education to be a "school in crisis." When a school is declared to be a "school in crisis," the following actions shall be required:

(a) The full-time and part-time certified staff of that school shall be placed on probation;

(b) The principal shall immediately notify the students' parents of the students' right to transfer to a successful school, with procedures for initiating the request;

(c) Within thirty (30) days after the declaration by the state board under this subsection or no later than thirty (30) days before the start of the next school year, whichever is later, any student in that school may request and shall be allowed to transfer to a successful school as determined under the provisions of subsection (2) of this section. The superintendent shall select the receiving successful school in the home district or make arrangements with a neighboring district. If two (2) districts cannot agree, the superintendent of the student's resident district shall request the State Board for Elementary and Secondary Education to resolve the issue and make a decision on the placement of the student within thirty (30) days of the request. The board of the district in which the student resides shall be responsible for all tuition and transportation costs incurred as a result of a student transferring from a "school in crisis" to a successful school. If a decline in student enrollment causes overstaffing at the "school in crisis," personnel shall be reduced or transferred pursuant to KRS 161.760 and 161.800.

(d) One (1) or more Kentucky distinguished educators shall be assigned to the school by the commissioner of education to carry out the duties as described in KRS 158.782. Notwithstanding any other statute to the contrary, at the end of six (6) months, the Kentucky distinguished educator shall evaluate and make a recommendation to the superintendent regarding the retention, dismissal, or transfer of each full-time and part-time certified staff member. Recommendations for transfer shall conform to any employer-employee bargained contract which is in effect. Recommendations for dismissal shall be binding on the superintendent who shall notify the staff member pursuant to KRS 161.790. This evaluation process shall continue every six (6) months until the school is no longer a "school in crisis" as determined by the State Board for Elementary and Secondary Education; and

(e) The school shall be required to develop a school improvement plan and shall be eligible to receive funds from the school improvement fund.

(6) The State Board for Elementary and Secondary Education shall develop a system of rewards and sanctions for certified staff who are not assigned to a school in a local school district. The system shall be analogous to the system described in subsections (1) through (5) of this section. Rewards shall be given to non-school-based staff when the district's proportion of successful students increases above a threshold adopted by the state board and comparable to the threshold adopted for schools. Sanctions shall be imposed when the proportion of successful students in the district declines in the same proportion used to determine school sanctions under subsections (3), (4), and (5) of this section. A school district

that does not meet its threshold shall be required to develop a district improvement plan defined in KRS 158.650.

(7) A school district in which the proportion of successful students declines by five percent (5%) or more ***in any biennium beginning with the 1994-96 biennium*** shall be assigned one (1) or more Kentucky distinguished educators to assist the system, evaluate personnel, and notwithstanding any other statute to the contrary, make personnel recommendations every six (6) months on retention, dismissal, or transfer. Personnel recommendations shall be made to the superintendent. Recommendations on the superintendent's status shall be made to the local board of education. If the recommendation is to terminate the superintendent, the board shall terminate the contract pursuant to KRS 160.350. If a district has a declining proportion of successful students for two (2) consecutive biennial assessment periods, the district shall be declared an education development district pursuant to KRS 158.685 and the board members and the superintendent shall be removed under the provisions of KRS 156.132 and 156.136.

(8) The State Board for Elementary and Secondary Education shall adopt administrative regulations to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 4. KRS 158.782 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall promulgate administrative regulations to set forth the criteria for the Kentucky Distinguished Educators Program which shall be implemented by July 1, 1991. The designation of "Kentucky Distinguished Educator" shall be given to the state's most outstanding and highly skilled certified educators who deserve recognition and are willing to fulfill the following purposes of the program:

(a) Serving as teaching ambassadors to spread the message that teaching is an important and fulfilling profession;

(b) Assisting the Department of Education with research projects and staff development efforts;

(c) Accepting assignments in schools whose percentage of successful students declined as described in KRS 158.6455. The assignments shall require the educator to:

1. Work in a school ***on a*** full-time ***or part-time basis*** for a designated period of time to assist the school staff with implementing its school improvement plan. The educator shall have the authority to make decisions previously made by the school staff;

2. Help to increase the effectiveness of the staff, parents, the civic and business community, and government and private agencies in improving the school's performance; and

3. Evaluate and make recommendations on the retention, dismissal, or transfer of certified staff in a "school in crisis."

4. Complete an intensive training program, provided by the Department of Education and approved by the State Board for Elementary and Secondary Education, prior to being assigned to assist a school's staff with implementing its school improvement plan. The training program shall include, but shall not be limited to instruction in the methods of personnel evaluation, school organization, school curriculum, and assessment.

(2) The Kentucky Distinguished Educators Program criteria shall include:

(a) A selection process which shall allow for self nomination, provide a broad spectrum of instructional positions, and generate statewide representation.

(b) Beginning with the 1992-93 school year, special recognition shall be given to five (5) Kentucky distinguished educators each year in the form of a one (1) year sabbatical leave to work with instructional personnel across the state and to serve as teaching ambassadors to the state at large.

(c) Each recipient shall receive a monetary award of two hundred fifty dollars ($250) when selected and shall also be paid in accordance with his current salary for other program requirements which arise pursuant to subsection (1) of this section. The Department of Education shall be responsible for all expenses incurred as a result of the Kentucky Distinguished Educators Program, except those expenses associated with the funding of the position of the person who replaces the Kentucky distinguished educator when he is assigned to an unsuccessful school or district.

(d) Kentucky distinguished educators assigned to an unsuccessful school shall receive a salary supplement of fifty percent (50%) of his annual salary for each year of service in that capacity. The state board shall determine if reimbursement for vehicle mileage shall be allowed. If his assigned school achieves the threshold level in the next biennial review, he shall receive his portion of the reward due to the entire staff calculated on his base salary regardless of decisions made by the school staff pursuant to KRS 158.6455(1)(g).

(e) The Kentucky distinguished educator shall be granted professional leave pursuant to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. The Kentucky distinguished educator shall not lose any employee benefits as a result of his special assignment.

(f) A Kentucky distinguished educator shall not be assigned to a school or to a district assignment in the district in which he is employed.

Section 5. For the 1994-96 biennium, the State Board for Elementary and Secondary Education is directed to conduct the tests that are the same as or similar to the National Assessment of Education Progress and the performance events portion of the accountability assessment for high schools pursuant to KRS 158.6453 in the eleventh grade. The portfolio or exhibitions collected for accountability purposes may be completed in the eleventh grade or the twelfth grade or both. Nothing in this section shall be construed as prohibiting the Department of Education from administering assessments to twelfth graders in order to make the physchometric adjustments necessary to implement the provisions of this section. The State Board is also directed to review the manner in which the accountability assessment is conducted in the elementary and middle schools to find ways to distribute the work load relating to assessment tasks so as not to place the total responsibility on the teachers of any one (1) grade level or subject area.

Section 6. The General Assembly confirms Executive Order 92-1258 to the extent it is not otherwise confirmed by this Act.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 256** is as follows:

On page 9, line 21, after the word "authority", by inserting the following: "***in a school in crisis as defined in KRS 158.6455(5)***".

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 256**. Agreed.

Representative Stumbo moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed

Representative Stumbo moved that **HB 256**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 68, Nays 26. (See March 29, 1994 roll call on **HB 256** - Appendix)

HB 256, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 256**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 358, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 358** is as follows:

HB 358, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this chapter for which a specific penalty is not otherwise provided shall be guilty of a Class B misdemeanor.

Section 2. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

  (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order, or

  (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(4) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

    1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

    2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central

nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in paragraph 2. of this subsection takes effect with respect to that substance.

(5) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trade mark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(8) "Drug" means (a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) substances intended for use in the diagnosis, care, mitigation, treatment or prevention of disease in man or animals; (c) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (d) substances intended for use as a component of any article specified in this subsection. It does not include devices or their components, parts, or accessories.

(9) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(10) "Isomer" means the optical isomer, except used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(11) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(12) "Marijuana" means all parts of the plant cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(13) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (13)(a) of this section, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ***ecgonine*** [~~ecogenine~~], and derivatives of ***ecgonine*** [~~ecogenine~~] or their salts have been removed.

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(f) ***Ecgonine*** [~~Ecogonine~~], its derivatives, their salts, isomers, and salts of isomers.

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) through (f).

(14) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(15) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(18) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(19) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(20) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(21) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(22) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(23) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans ***tetrahydrocannabinol*** [~~tetrahydrocannabinols~~], and its optical isomers.

(24) "Traffic" means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(25) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(26) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to animal owned by him or by a member of his household.

Section 3. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Human Resources, the controlled substances listed in this section are included in schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; ***Dioxaphetyl butyrate*** [~~Dioxaphetylebutyrate~~]; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; ***Hydroxypethidine*** [~~Hydroxpethidine~~]; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate;

Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; ***Pholcodine*** ~~[Phoclodine]~~; Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-***methylenedioxyamphetamine*** ~~[methylenedioxy amphetamine]~~; 5-methoxy-3, 4-methylenedioxy amphetamine; 3,4, 5-***trimethoxyamphetamine*** ~~[trimethoxy amphetamine]~~; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-***dimethoxyamphetamine*** ~~[dimethoxylamphetamine]~~; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine***, 2 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone, Cat, and Ephedrone)***.

Section 4. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Human Resources, the controlled substances listed in this section are included in schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ***ecgonine*** ~~[ecogonine]~~ and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A***,***~~[;]~~ 4-cyano-1-methyl-4-phenylpiperidine***,***~~[;]~~ Pethidine-Intermediate-B***,***~~[;]~~ ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C***,***~~[;]~~ 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

Section 5. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; [~~and~~]

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment***; and***

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee way be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked

and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Representative Lear moved that the House concur in the Senate Committee Substitute to **HB 358**. Agreed.

Representative Lear moved that **HB 358**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 29, 1994 roll call on **HB 358** - Appendix)

HB 358, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 358**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 385, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 385** is as follows:

On page 2, line 7, after "Section 4." by inserting:

"KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water[~~, used or capable of being used as a means of transportation on water~~];

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

   (a) Boats or vessels propelled totally by a direct current battery powered motor ***when used on private waters*** [~~not to exceed one (1) horsepower, excluding those with generator systems~~]; and

   (b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(8) "Department" means the Department for Natural Resources;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means county clerk;

(11) "Division of Water Patrol" means the Division of Water Patrol, Department for Natural Resources.

(12) "Title" means the certificate of title.

Section 5."; and

On page 5, line 7, by changing "Section 5." to "Section 6.".

The Senate Committee Amendment No. 2 Title to **HB 385** is as follows:

By amending the title to read as follows: "AN ACT relating to water resources."

Representative R. Smith moved that the House concur in Senate Committee Amendment No. 1 to **HB 385**.

Representative Stacy inquired if there was a fiscal impact statement on **HB 385**.

Representative Stacy inquired if Senate Committee Amendment No. 1 was germane to **HB 385**.

The Speaker stated that he could not rule on the germaneness of a Senate Committee Amendment.

Representative R. Smith moved that the House concur in Senate Committee Amendment No. 1 to **HB 385**.

On the roll call to concur in Senate Committee Amendment No. 1 to **HB 385**, the vote was **Yeas 50**--Ackerson, Adams, Adkins, Altman, Arnold, Bondurant, Bowling, Brown, Burch, Butler, Clarke, Coleman, Crenshaw, Curd, Cyrus, Deskins, DeWeese, Donnermeyer, Fox, Gedling, Gee, Geveden, Hancock, Harper, Hatcher, Lee, Lewis, Lile, Long, Lyne, Marzian, Mason, McElroy, Moberly, Mullinix, Nesler, Northup, Nunn, Rasche, Richards, Riggs, Riner, Scott, R. Smith, Stacy, Stengel, Todd, Turner, Wayne, Yates. **Nays 39**--Allen, Ballard, Barrows, Bentley, Bryant, Buis, Callahan, Cave, L. Clark, Collins, Damron, Farley, Ford, French, Graham, Gray, Heleringer, Jensen, Keith, Kerr, Lear, LeMaster, Lindsay, Little, Maggard, Maricle, Morris, Noland, Rapier, Reinhardt, Ridley, Sanders, Shacklette, Simpson, Stumbo, Trapp, Treesh, Worthington, Zimmerman.

The motion to concur in Senate Committee Amendment No. 1 to **HB 385** was adopted.

Representative B. Smith moved that House concur in Senate Committee Amendment No. 2 Title to **HB 385**. Agreed.

Representative R. Smith moved that **HB 385**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 64, Nays 22. (See March 29, 1994 roll call on **HB 385** - Appendix)

HB 385, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 385**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 5 to **SB 72**, by Representative Sanders:

On page 1, after line 5, by inserting the following:

"Section 3. KRS 81.010 is amended to read as follows:

Cities are classified as follows:

(1) First class:
Louisville, Jefferson County

(2) Second class:
Ashland, Boyd County
Bowling Green, Warren County
Covington, Kenton County
Frankfort, Franklin County
Hopkinsville, Christian County
Lexington, Fayette County
Newport, Campbell County
Owensboro, Daviess County
Paducah, McCracken County
Radcliff, Hardin County
Richmond, Madison County

(3) Third class:
Campbellsville, Taylor County
Corbin, Whitley and Knox Counties
Danville, Boyle County
Erlanger, Kenton County
Flatwoods, Greenup County
Florence, Boone County
Glasgow, Barren County
Hazard, Perry County
Henderson, Henderson County
Mayfield, Graves County
Maysville, Mason County
Middlesboro, Bell County

Murray, Calloway County
Nicholasville, Jessamine County
Paris, Bourbon County
Pikeville, Pike County
Shively, Jefferson County
Somerset, Pulaski County
Winchester, Clark County

(4) Fourth class:

Alexandria, Campbell County
Anchorage, Jefferson County
Augusta, Bracken County
Barbourville, Knox County
Bardstown, Nelson County
Beaver Dam, Ohio County
Bellevue, Campbell County
Benton, Marshall County
Berea, Madison County
Calvert City, Marshall County
Carlisle, Nicholas County
Carrollton, Carroll County
Catlettsburg, Boyd County
Central City, Muhlenberg County
Columbia, Adair County
Cumberland, Harlan County
Cynthiana, Harrison County
Dawson Springs, Hopkins County
Dayton, Campbell County
Douglass Hills, Jefferson County
Earlington, Hopkins County
Edgewood, Kenton County
Elizabethtown, Hardin County
Elkhorn City, Pike County
Elkton, Todd County
Elsmere, Kenton County
Eminence, Henry County
Falmouth, Pendleton County
Flemingsburg, Fleming County
Fort Mitchell, Kenton County
Fort Thomas, Campbell County
Fort Wright, Kenton County
Franklin, Simpson County
Fulton, Fulton County
Georgetown, Scott County
Graymoor/Devondale, Jefferson County
Grayson, Carter County
Greenville, Muhlenberg County
Harlan, Harlan County
Harrodsburg, Mercer County

Hickman, Fulton County
Highland Heights, Campbell County
Hillview, Bullitt County
Hodgenville, Larue County
Hurstbourne, Jefferson County
Irvine, Estill County
Jackson, Breathitt County
Jeffersontown, Jefferson County
Jenkins, Letcher County
LaGrange, Oldham County
Lawrenceburg, Anderson County
Lebanon, Marion County
Leitchfield, Grayson County
London, Laurel County
Ludlow, Kenton County
Lyndon, Jefferson County
Madisonville, Hopkins County
Manchester, Clay County
Marion, Crittenden County
Martin, Floyd County
Middletown, Jefferson County
Monticello, Wayne County
Morehead, Rowan County
Morganfield, Union County
Mount Sterling, Montgomery County
Mount Washington, Bullitt County
Olive Hill, Carter County
Owingsville, Bath County
Paintsville, Johnson County
Park Hills, Kenton County
Pineville, Bell County
Prestonsburg, Floyd County
Princeton, Caldwell County
Prospect, Jefferson County
Providence, Webster County
Russell, Greenup County
Russellville, Logan County
Saint Regis Park, Jefferson County
Salyersville, Magoffin County
Scottsville, Allen County
Shelbyville, Shelby County
Shepherdsville, Bullitt County
Southgate, Campbell County
Springfield, Washington County
St.Matthews, Jefferson County
Stanton, Powell County
Sturgis, Union County
Taylor Mill, Kenton County

Vanceburg, Lewis County
Versailles, Woodford County
Villa Hills, Kenton County
Vine Grove, Hardin County
West Liberty, Morgan County
Williamsburg, Whitley County
Wilmore, Jessamine County

(5) Fifth class:

Adairville, Logan County
Albany, Clinton County
Auburn, Logan County
Audubon Park, Jefferson County
Barbourmeade, Jefferson County
Bardwell, Carlisle County
Beattyville, Lee County
Beechwood Village, Jefferson County
Benham, Harlan County
Bloomfield, Nelson County
Brandenburg, Meade County
Bromley, Kenton County
Brooksville, Bracken County
Brownsville, Edmonson County
Burgin, Mercer County
Burkesville, Cumberland County
Burnside, Pulaski County
Butler, Pendleton County
Cadiz, Trigg County
Calhoun, McLean County
Camargo, Montgomery County
Campbellsburg, Henry County
Cave City, Barren County
Clarkson, Grayson County
Clay, Webster County
Clay City, Powell County
Clinton, Hickman County
Cloverport, Breckinridge County
Cold Spring, Campbell County
Columbus, Hickman County
Corydon, Henderson County
Crescent Springs, Kenton County
Crestview Hills, Kenton County
Crittenden, Grant County
Crofton, Christian County
Devondale, Jefferson County
Drakesboro, Muhlenberg County
Dry Ridge, Grant County
Eddyville, Lyon County
Edmonton, Metcalfe County

Evarts, Harlan County
Ferguson, Pulaski County
Fleming-Neon, Letcher County
Fredonia, Caldwell County
Grand River, Livingston County
Greensburg, Green County
Greenup, Greenup County
Guthrie, Todd County
Hardin, Marshall County
Hardinsburg, Breckinridge County
Hartford, Ohio County
Hawesville, Hancock County
Hindman, Knott County
Horse Cave, Hart County
Hustonville, Lincoln County
Independence, Kenton County
Indian Hills, Jefferson County
Irvington, Breckinridge County
Jamestown, Russell County
Jeffersonville, Montgomery County
Junction City, Boyle County
Kuttawa, Lyon County
La Center, Ballard County
Lakeside Park, Kenton County
Lancaster, Garrard County
Lebanon Junction, Bullitt County
Lewisburg, Logan County
Lewisport, Hancock County
Liberty, Casey County
Livermore, McLean County
Louisa, Lawrence County
Loyall, Harlan County
Lynch, Harlan County
Lynnview, Jefferson County
McKee, Jackson County
Meadowvale, Jefferson County
Midway, Woodford County
Millersburg, Bourbon County
Minor Lane Heights, Jefferson County
Morgantown, Butler County
Morton's Gap, Hopkins County
Mt.Olivet, Robertson County
Mt.Vernon, Rockcastle County
Muldraugh, Meade County
Munfordville, Hart County
North Middletown, Bourbon County
Northfield, Jefferson County
Nortonville, Hopkins County

Oak Grove, Christian County
Orchard Grass Hills, Oldham County
Owenton, Owen County
Park City, Barren County
Perryville, Boyle County
Pewee Valley, Oldham County
Pioneer Village, Bullitt County
Plantation, Jefferson County
Powderly, Muhlenberg County
Raceland, Greenup County
Ravenna, Estill County
Rolling Hills, Jefferson County
Russell Springs, Russell County
Sandy Hook, Elliott County
Sebree, Webster County
Silver Grove, Campbell County
Smith's Grove, Warren County
South Shore, Greenup County
Stanford, Lincoln County
Tompkinsville, Monroe County
Uniontown, Union County
Van Lear, Johnson County
Walton, Boone County
Warsaw, Gallatin County
Washington, Mason County
Watterson Park, Jefferson County
West Buechel, Jefferson County
West Point, Hardin County
Whitesburg, Letcher County
Wickliffe, Ballard County
Wilder, Campbell County
Williamstown, Grant County
Windy Hills, Jefferson County
Woodlawn Park, Jefferson County
Worthington, Greenup County

(6) All other incorporated cities belong to the sixth class."

Orders of the Day (Continued)

HB 484, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 484** is as follows:

On page 12 by deleting all of lines 26 and 27.

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 484**. Agreed.

Representative Wayne moved that **HB 484**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 81, Nays 9. (See March 29, 1994 roll call on **HB 484** - Appendix)

HB 484, as amended by the Senate, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 484**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 569, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 569** is as follows:

HB 569, AN ACT relating to small and farm wineries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.155 is amended to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses, except that each off-premises retail site shall be separately licensed:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises or at off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small winery or off-premise retail site is located in wet territory;

(c) Sell by the package on premises or at off-premise retail sites, wine produced on the premises of the small winery at retail to consumers if all sales sites are located in wet territory; ~~[and]~~

(d) Sell wine produced on the premises of the small winery to wholesale license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders***; and***

(e) Consume on the premises wine produced by the small winery and purchased by the package at the licensed premises, if the small winery is located in wet territory.

(2) In accordance with regulations developed by the board the holder of a small winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices, or honey produced in Kentucky are not obtainable, may apply for a permit to import such products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices, or honey are not available from any other source within the Commonwealth of Kentucky.

(3) If a licensed small winery is located in a dry territory KRS 242.230 to 242.430 shall apply.

(4) This section shall not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the rules of the board as established by administrative regulations, nor from regulation by the board at all premises licensed by the small winery, except as expressly stated in this section.

Section 2. KRS 243.156 is amended to read as follows:

(1) A farm winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses:

(a) Manufacture wines and bottle wines at a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, in an amount not to exceed twenty-five thousand (25,000) gallons in one (1) year;

(b) Serve on the premises complimentary samples of wine produced by it in amounts not to exceed four (4) ounces per patron per day, if the farm winery is located in wet territory;

(c) Sell wine produced on the premises of the farm winery by the package at retail to consumers, if the farm winery is located in wet territory;

(d) Sell wine produced on the premises of the farm winery to wholesale liquor license holders ***and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders***; ~~[and]~~

(e) Serve complimentary samples or sell wine produced on the premises of the farm winery at another farm winery or small winery sales site, if the other farm winery or small winery sales site is located in wet territory***; and***

(f) Consume on the premises wine produced by the farm winery and purchased by the package at the licensed premises, if the farm winery is located in wet territory.

(2) If a licensed farm winery is located in a dry territory, it may establish one (1) sales outlet in wet territory.

(3) All of the fresh fruits, fruit juices, or honey used to manufacture wine at a farm winery shall be grown or produced in the Commonwealth of Kentucky.

(4) If a licensed farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply.

(5) This section shall not exempt the holder of a farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the rules of the board as established by administrative regulations, except as expressly stated in this

section.

Section 3. KRS 243.882 is amended to read as follows:

For the purposes of KRS 243.884 to 243.892:

(1) "Wholesale sale" or "sale at wholesale" means a sale made for the purpose of resale in the regular course of business of beer, wine, or distilled spirits, *except as provided in subsection (2) of Section 4 of this Act*~~[but shall exclude sales between wholesalers, and between distributors]~~.

(2) A "wholesaler" is a person required to be or who is a licensee authorized to do business pursuant to KRS 243.160 and 243.170.

(3) A "distributor" is a person required to be or who is a licensee authorized to do business pursuant to KRS 243.180.

Section 4. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at the rate of nine percent (9%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth *except as provided in subsection (2) of this section*. ~~[Sales made between wholesalers or between distributors shall not be taxed under the provisions of KRS 243.884 to 243.892.]~~ Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

Representative Rapier moved that the House concur in the Senate Committee Substitute to **HB 569**. Agreed.

Representative Rapier moved that **HB 569**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 81, Nays 3. (See March 29, 1994 roll call on **HB 569** - Appendix)

HB 569, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 569**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 684, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 684** is as follows:

On page 1, after line 24, by adding:

"*(12) "Unit" means any tract or tracts which the department has determined is underlaid by a pool or pools of oil and associated gas, and is not a "drilling unit" as defined in KRS 353.510(19).*"; and

On page 2, line 13, after "KRS", by deleting "CHAPTER 353" and inserting in lieu thereof "353. 500 to 353.720"; and

On page 1, line 25, by deleting "*(12)*" and inserting in lieu thereof "*(13)*"; and

On page 2, line 3, by deleting "*(13)*" and inserting in lieu thereof "*(14)*"; and

On page 2, line 5, by deleting "*(14)*" and inserting in lieu thereof "*(15)*"; and

On page 2, line 20, after "*oil*", by deleting "*or*" and inserting in lieu thereof "*and associated*", and on that same line, after "*gas*", by deleting "*or both*"; and

On page 3, line 23, after "*oil*", by deleting "*or*" and inserting in lieu thereof "*and associated*", and on that same line, after "*gas*", by deleting "*or both*"; and

On page 4, line 2, after "*oil*", by deleting "*or*" and inserting in lieu thereof "*and associated*", and on that same line, after "*gas*", by deleting "*or both*"; and

On page 4, line 4, after "***oil***", by deleting "***or***" and inserting in lieu thereof "***and associated***", and on that same line, after "***gas***", by deleting "***or both***".

The Senate Committee Amendment No. 2 Title to **HB 684** is as follows:

By amending the title to read as follows: "AN ACT relating to oil and gas unitization and definitions relating thereto.".

Representative R. Smith moved that the House concur in Senate Committee Amendment No. 1 to **HB 684**. Agreed.

Representative R. Smith moved that the House concur in Senate Committee Amendment No. 2 Title to **HB 684**. Agreed.

Representative R. Smith moved that **HB 684**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 29, 1994 roll call on **HB 684** - Appendix)

HB 684, as amended by the Senate, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 684**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 32, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 32** is as follows:

HB 32, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations (as defined in KRS Chapter 271B), or the members of a bona fide association, composed of any number of members, who join together to self-insure against professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group and who comply with the following conditions:

    (a) Establishment of a professional or public liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or public liability risks;

    (b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group; and

    (c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.

(7) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

    (a) A "qualified organization" means one which is:

        1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or

        2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or

        3. Exempt as a publicly-owned or nonprofit, privately-endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

    (b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

(8) A religious publication, or its subscribers, that:

(a) Is a nonprofit religious organization;

(b) Is limited to subscribers who are members of the same denomination or religion;

(c) Acts as an organizational clearinghouse for information between subscribers who have financial, physical, or medical needs and subscribers who choose to assist with those needs, matching subscribers with the present ability to pay with subscribers with a present financial or medical need;

(d) Pays for the subscribers' financial or medical needs by payments directly from one (1) subscriber to another;

(e) Suggests amounts to give that are voluntary among the subscribers, with no assumption of risk or promise to pay either among the subscribers or between the subscribers and the publication; and

(f) Provides the following verbatim written disclaimer as a separate cover sheet for all documents distributed by or on behalf of the exempt entity, including all applications, guidelines, promotional or informational materials and all periodic publications:

This publication is not issued by an insurance company nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment.

Whether anyone chooses to pay your medical bills will be totally voluntary. This publication should never be considered as a substitute for an insurance policy.

Whether you receive any payments for medical expenses, and whether or not this publication continues to operate, you will always remain liable for any unpaid bills.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 32** is as follows:

On page 2, line 24, after "*publication*" by inserting "*(as identified in this subsection)*";

On page 2, line 24, after "*that*" by inserting "*limit their operations to those activities permitted by this subsection; and*"

Representative French moved that the House concur in the Senate Committee Substitute to **HB 32**. Agreed.

Representative French moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 32**. Agreed

Representative French moved that **HB 32** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 29, 1994 roll call on **HB 32** - Appendix)

HB 32, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative French moved that the vote by which **HB 32**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 200, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 200** is as follows:

On page 27, line 16, after "specific" by inserting "*reason*" and by removing the closing bracket after "~~physical~~" and by striking through "disability" and by placing a closing bracket after "disability".

Representative Riggs moved that the House concur in the Senate Committee Amendment No. 1 to **HB 200**. Agreed.

Representative Riggs moved that **HB 200**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 29, 1994 roll call on **HB 200** - Appendix)

HB 200, as amended by the Senate, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 200**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 510, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 510** is as follows:

HB 510, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer, with whom a person was most recently insured under a motor vehicle liability insurance policy, shall not refuse to issue a policy of motor vehicle liability insurance nor impose an additional premium solely because the person is uninsured at the time of reapplication, if the person demonstrates that:

- ***(a) He provided his insurer or insurance agent with prior notice of his intent to nonrenew the policy and the reasons for nonrenewal;***
- ***(b) During the period he was without insurance, he did not own a motor vehicle, the registration on the insured motor vehicle was canceled because he was absent from the Commonwealth, the motor vehicle was out of use, or inoperable and under repair, or he was unable to pay the premium renewal due to unemployment or other bona fide economic hardship;***
- ***(c) During the period the person was without insurance, he was not convicted of any traffic violation under the laws of the Commonwealth; or***
- ***(d) The reapplication was made within twenty-four (24) months of the nonrenewal of the policy.***

(2) This section shall not be construed to permit the owner of the motor vehicles or any other person to operate or to permit the operation of the motor vehicle in this Commonwealth until the security has again been provided pursuant to KRS Chapter 304, Subtitle 39.

Representative Collins moved that the House refuse to concur in Senate Committee Substitute to **HB 510**. Agreed.

HB 613, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 613** is as follows:

On page 7, after line 7, by adding the following:

"***(9) Coal mining operations which are currently regulated under KRS Chapter 350.***".

Representative R. Smith moved that the House concur in Senate Committee Amendment No. 1 to **HB 613**. Agreed.

Representative R. Smith moved that **HB 613**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See March 29, 1994 roll call on **HB 613** - Appendix)

HB 613, as amended by the Senate, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 613**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **SB 256**, by Representative Miracle:

On page 1, between lines 17 and 18 to add the following:

"***Section 156c. No municipality shall enact an ordinance based upon a person's sexual orientation.***

Section 156d. No municipality shall enact any ordinance to occupy any part of the field of regulation of the sale, transfer, ownership, possession, carrying, use, or transportation of firearms, firearms accessories, or components of firearms or ammunition, or combination thereof."

Orders of the Day (Continued)

HB 187, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 187** is as follows:

HB 187, AN ACT relating to the primary program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.160 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools***, subject to the following conditions:***

1. ***a.*** [~~, including~~] Procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district ***shall be included, except as provided in subparagraph 1.b. of this paragraph*** by the beginning of the 1993-1994 school year. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time ***and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate***.

b. ***A school council established pursuant to KRS 160.345 or if none exists, a school may determine, based on individual student needs, that implementing multiage and multiability classrooms need not apply for every grouping of students for every activity throughout the entire day. The school council shall revise the action plan to reflect any changes in the primary program's design.***

2. The courses of study for students shall include American sign language ***which*** [~~and it~~] shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board for Elementary and Secondary Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the State Board for Elementary and Secondary Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the State Board for Elementary and Secondary Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) At the request of a local school council, any local school district superintendent shall request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful schools shall not be subject to waiver. Any waiver granted under this subsection shall be subject to revocation upon a determination by the State Board for Elementary and Secondary Education that the school holding the waiver has subsequently failed to reach its threshold level as provided for in KRS 158.6455.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 187** is as follows:

On page 1, line 14, by deleting the line of new language in its entirety;

On page 1, line 15, by deleting the word "***paragraph***";

On page 1, line 15, after the word "year", by adding the following: "***, except as provided in subparagraph 1.b. of this paragraph***"; and

On page 2, line 4, by adding after the word "***council***", the words "***or school***".

Representative Moberly moved that the House concur in the Senate Committee Substitute to **HB 187**. Agreed.

Representative Moberly moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 187**. Agreed

Representative Moberly moved that **HB 187**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March, 1994 roll call on **HB 187** - Appendix)

HB 187, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

HB 417, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 417** is as follows:

On page 10, line 26, by removing the opening bracket and strikethrough; and

On page 10, line 27, by removing closing bracket and strikethrough on "(6)"; and

On page 11, line 6, by deleting "***(6)***" and removing bracket and strikethrough on "(7)"; and

On page 11, line 9, by deleting "***(7)***" and removing bracket and strikthrough on "(8)"; and

On page 11, line 11, by deleting "***(8)***" and removing bracket and strikethrough on "(9)"; and

On page 11, line 13, by deleting "***(9)***" and removing bracket and strikethrough on "(10)"; and

On page 11, line 15, by deleting "***(10)***" and removing bracket and strikethrough on "(11)"; and

On page 11, line 17, by deleting "***(11)***" and inserting in lieu thereof "***(12)***"; and

On page 11, line 19, by bracketing and striking through "(12)" and inserting in lieu thereof "***(13)***".

The Senate Floor Amendment No. 2 to **HB 417** is as follows:

On page 19, line 9, by inserting an underlined comma after "dwellings" and by placing brackets around and striking through "and"; and

On page 19, at the beginning of line 10, by inserting "***church buildings, and***"; and

On page 19, line 10, following "structures", by inserting "***whose historic significance would be threatened or***

destroyed"; and

On page 19, line 10, by placing brackets around and striking through ", and small business concerns", and by placing an opening bracket before and striking through "physically"; and

On page 19, line 11, by placing a closing bracket following "handicapped" and striking through "handicapped", and, following "persons", by inserting "***with a disability***"; and

On page 19, line 12, following "to", by inserting "***persons with a disability***", and by placing brackets around and striking through "the handicapped".

Representative Palumbo moved that the House concur in Senate Committee Amendment No. 1 to **HB 417**. Agreed.

Representative Palumbo moved that **HB 417**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 29, 1994 roll call on **HB 417** - Appendix)

HB 417, as amended by the Senate, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 417**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 322, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 322** is as follows:

HB 322, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a proposed administrative regulation, an emergency administrative regulation, and the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that ***an*** ~~[a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency]~~ administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) ***"Economic impact" means a financial impact on:***

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers.

(7) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(8)~~[(7)]~~ "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(9)~~[(8)]~~ "Filed" means that ~~[a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of]~~ an ~~[existing administrative regulation, or emergency]~~ administrative regulation*, or other document required to be filed by this chapter,* has been submitted to the Commission in accordance with this chapter;

(10) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A.

(11) "Proposed administrative regulation", except as provided by subsection (5) of Section 3 of this Act, means an administrative regulation that an administrative body proposes to promulgate.

(12)~~[(9)]~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(13)~~[(10)]~~ "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(14)~~[(11)]~~ "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(15)~~[(12)]~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

The provisions of Section 3 of this Act shall not apply to the promulgation of an administrative regulation that is limited to compliance with the drafting and format requirements of Sections 12 and 13 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided by subsection (5) of this section, prior to the promulgation of an administrative regulation, an administrative body shall:

(a) Publish a notice of its intent to promulgate an administrative regulation in the administrative register; and

(b) Hold a public hearing on the proposed administrative regulation as provided by this section.

(2) The notice of intent published in the administrative register shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least twenty (20) days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons agree to be present at the public hearing:

1. Twenty (20) to twenty-five (25) regular working days after the notice of intent to promulgate is published in the administrative register, excluding the date of publication;

2. At which it will accept oral and written comments from any interested person;

(d) The address to which the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;

2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;

3. A statement of the need for, and the function of, the administrative regulation;

4. A statement of the benefits expected from the administrative regulation; and

5. How the administrative regulation will be implemented.

(3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;

2. On the date the notice is published in the administrative register.

(4) (a) An administrative body shall file the notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the administrative register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) The Commission may prescribe the format for the notice of intent.

(5) (a) The provisions of this section shall not apply to an emergency administrative regulation that an administrative body proposes to promulgate, if it will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent shall be filed with the emergency administrative regulation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Following a public hearing on a proposed administrative regulation held pursuant to the provisions of Section 3 of this Act, the administrative body shall give consideration to all comments received or made prior to the adjournment of the public hearing.

(2) The administrative body shall file with the Commission on or before 12 noon, eastern time, on the twentieth day following the public hearing, a statement:

(a) Identifying the persons who submitted written comments, or attended the public hearing; and

(b) Containing a summary of the:

1. Comments received or made at the public hearing; and

2. Its response to the comments.

(3) The administrative body shall provide a copy of the summary to any person who attended the public hearing and requested that a copy of the summary be provided.

(4) The regulations compiler shall transmit a copy of the summary to a legislator upon request.

(5) If the administrative body promulgates an administrative regulation that was the subject of a public hearing required under the provisions of this section and Section 3 of this Act, the regulations compiler shall transmit a copy of the summary to every member of the General Assembly.

(6) The administrative body shall provide a copy of the summary to persons who attended the public hearing and requested that a copy of the summary be provided.

Section 5. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of ***new, emergency, and*** ~~[proposed administrative regulations, review of]~~ existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That ~~[a proposed administrative regulation, proposed amendment to]~~ an administrative regulation~~[, emergency administrative regulation, or existing administrative regulation]~~:

1. Is wrongfully promulgated;

2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;

4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;

5. Fails to use tiering when tiering is applicable;

6. Is in excess of the administrative body's authority; or

7. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an ~~[existing]~~ administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit ~~[such]~~ data and information as required by the subcommittee in the performance of its duties under this chapter***,*** and no administrative body shall fail to provide the information or data required.

Section 6. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations***, and other documents required to be filed by the provisions of this Act,*** tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of ~~[proposed administrative regulations, proposed amendment to existing administrative regulations, proposed repeal of existing administrative regulations, emergency]~~ administrative regulations, ***other documents required to be filed by this chapter,*** and regulatory impact analysis for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Make certifications required by this chapter;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) Refuse to accept for filing ~~[proposed]~~ administrative regulations***, and other documents required to be filed by this chapter,*** that do not conform to the provisions of KRS 13A.222 and 13A.224, and notify the administrative body in writing of the reasons for refusing to accept ***an*** ~~[a proposed]~~ administrative regulation for filing; and

(11) Perform ~~[such]~~ other duties ~~[as]~~ required by the Commission or by a subcommittee.

Section 7. KRS 13A.050 is amended to read as follows:

(1) The Legislative Research Commission shall compile, publish and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of ~~[proposed]~~ administrative regulations filed in accordance with this chapter. Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190 and 13A.210 through 13A.250.

(3) The Administrative Register shall be published the first day of each month and shall include all ~~[proposed]~~ administrative regulations ***and the notice of intent required by the provisions of Section 3 of this Act,*** received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the working day which immediately precedes the Saturday, Sunday, or holiday.

(4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.

(5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving, trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.

(6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 8. KRS 13A.080 is amended to read as follows:

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon ***administrative*** ~~[proposed]~~ regulations, including the procedure for contacting agencies about public hearings.

Section 9. KRS 13A.120 is amended to read as follows:

(1) An administrative body may ***promulgate*** ~~[adopt]~~ administrative regulations to implement a statute only when the act of

the General Assembly creating or amending the statute specifically authorizes the ***promulgation*** [~~adoption~~] of ***administrative*** [~~such~~] regulations or ***administrative*** [~~such~~] regulations are required by federal law, in which case ***administrative*** [~~such~~] regulations shall be no more stringent than the federal law or regulations.

(2) An administrative body shall not promulgate administrative regulations:

(a) When a statute prohibits the administrative body from promulgating administrative regulations;

(b) When the administrative body is not authorized by statute to promulgate administrative regulations;

(c) When a statute prohibits the administrative body from regulation of that particular matter;

(d) When the administrative body is not authorized by statute to regulate that particular matter;

(e) When a statute prescribes the same or similar procedure for the matter regulated;

(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;

(g) On any matter which is not clearly within the jurisdiction of the administrative body;

(h) On any matter which is beyond the statutory authorization of the administrative body to promulgate administrative regulations or which is not clearly authorized by statute; and

(i) Which modify or vitiate a statute or its intent.

(3) If a statute requires the submission of ***an*** [~~a proposed~~] administrative regulation to an official or another administrative body for review or approval, an administrative body shall not file an administrative regulation without first having obtained ***the*** [~~such~~] review or approval.

(4) Any administrative regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

(5) No administrative body, other than the Court of Justice, shall issue rules.

(6) No administrative body shall issue standards or by any other name issue a document of any type where an administrative regulation is required or authorized by law.

Section 10. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that ***must be placed into effect immediately in order*** [~~due~~] to***:*** [~~the exigencies of the situation must be placed into effect immediately, and~~]

(a) ***Meet an imminent threat to public health, safety, or welfare; or***

(b) Prevent a loss of federal funds; or

(c) To meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; and

(d) Is temporary in nature and will expire as provided ***in this section*** [~~herein~~]; or

(e)[~~(b)~~]Is temporary in nature and will be replaced by an ordinary administrative regulation as provided ***in this section*** [~~herein~~].

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(3) Emergency administrative regulations shall expire one hundred ***seventy (170)*** [~~twenty (120)~~] days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) Each emergency administrative regulation shall contain a statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(e) If applicable, the explanation required by subsection (5) of this section.

(7) An administrative body shall attach the statement of emergency required by subsection (6) of this section to the front of

the original and each copy of a proposed emergency administrative regulation.

(8) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(9) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(10) (a) If it is intended that the subject matter of an emergency administrative regulation remain in effect longer than one hundred ***seventy (170)*** ~~[twenty (120)]~~ days after publication of the emergency administrative regulation, the ordinary administrative regulation covering that subject matter shall be filed ***with the statement required by subsection (2) of Section 4 of this Act*** ~~[on or before the effective date of the emergency administrative regulation]~~.

(b) If such an ordinary administrative regulation has been filed and is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(c) If such an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(11) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(12) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be revoked.

Section 11. KRS 13A.200 is amended to read as follows:

An administrative regulation in contemplation of a statute provides a means whereby an administrative body may promulgate and file an administrative regulation following the enactment of a statute authorizing or directing its promulgation by the General Assembly and its approval by the Governor or its becoming law without signature but before the effective date subject to the following:

(1) The administrative regulation may be filed any time after signature by the Governor or upon the act becoming law without the Governor's signature but prior to the act's effective date.

(2) The ~~[proposed]~~ administrative regulation may be reviewed, hearings held, and all other steps taken with regard thereto, except for adoption, prior to the effective date of the statute which authorized or directed its issuance.

(3) All dates and other procedures which apply to an ordinary administrative regulation shall apply to an administrative regulation in contemplation of a statute.

(4) An administrative regulation in contemplation of a statute shall in all other respects be considered as ***an*** ~~[a proposed]~~ ordinary administrative regulation.

Section 12. KRS 13A.220 is amended to read as follows:

All ~~[proposed]~~ administrative regulations~~[, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations]~~ shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file the original and five (5) copies of ***an*** ~~[a proposed]~~ administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) ***An*** ~~[A proposed]~~ amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of ***an*** ~~[a proposed]~~ administrative regulation shall be as follows:

(a) ***An*** ~~[A proposed]~~ administrative regulation shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches and shall be double-spaced. Copies of the ~~[proposed]~~ administrative regulation may be mechanically reproduced;

(b) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the ~~[proposed]~~ administrative regulation;

(c) The cabinet, department and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(~~[Proposed]~~ Amendment)" or "(Amended After Hearing)," whichever is applicable. If ***an*** ~~[a proposed]~~ administrative regulation is new, the notation shall read "(***New*** ~~[Proposed]~~ Administrative Regulation)";

(d) The notation shall be followed by the number and title of the ~~[proposed]~~ administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new ~~[proposed]~~ administrative regulation;

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list ***all*** ~~[any]~~ statutes and other enactments, including appropriation acts or executive orders, to which the ~~[proposed]~~ administrative regulation relates or which shall be affected by the ~~[proposed]~~ administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the ~~[proposed]~~ administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the ~~[proposed]~~ administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of ***an*** ~~[a proposed]~~ administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.

(b) The authorizing signature of the administrative body promulgating the ~~[proposed]~~ administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the ~~[proposed]~~ administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270.

(e) The name of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

Section 13. KRS 13A.222 is amended to read as follows:

(1) In a new ~~[proposed]~~ administrative regulation, there shall be no underlining or bracketing.

(2) In ***an amendment*** ~~[all proposed amendments]~~ to ***an*** administrative ***regulation*** ~~[regulations]~~, the ~~[proposed]~~ new words shall precede the ~~[proposed]~~ deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all ~~[proposed]~~ new words; and

(b) Place the ~~[proposed]~~ deleted words in brackets and strike through these words.

(3) (a) ***An*** ~~[No]~~ administrative regulation shall ***not*** be amended by reference to a section only. ***An*** ~~[A proposed]~~ amendment shall contain the full text of the administrative regulation being amended.

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed in the first section of ***an*** [~~a proposed~~] administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of a specific chapter of the Kentucky Administrative Regulations Service. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;
2. To avoid repetition of a phrase; or
3. To limit or extend the provisions of ***an*** [~~a proposed~~] administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	—
At the time	when
And the same hereby is	is
Either directly or indirectly	—
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall

It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Until Whenever	if

(1) ***1.*** Unless the authority for an administrative regulation is an appropriation act that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of ***an*** ~~[a proposed]~~ administrative regulation shall be cited.

2. If an act has not been codified at the time a proposed administrative regulation is promulgated, or if the authority is an appropriation act, the citation shall be as follows: "Acts (year), Chapter (chapter number), Section (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.

Section 14. KRS 13A.2251 is amended to read as follows:

(1) An administrative regulation incorporating material by reference shall include:

(a) The effective date of the material incorporated by reference;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.

The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.

(2) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(3) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed. Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type the number of ***the*** ~~[a proposed]~~ administrative regulation to which material incorporated by reference pertains and the date on which it is filed on the front binder cover and on the first page of the material incorporated by reference.

Section 15. KRS 13A.2255 is amended to read as follows:

When ***an*** ~~[a proposed]~~ administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

(1) An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222;

(2) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the ~~[proposed]~~ administrative regulation; and

(3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in KRS 13A.222.

Section 16. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of ***an*** ~~[a proposed]~~ administrative regulation:

(a) Regulatory impact analysis;

(b) Tiering statement;

(c) Local mandate impact statement, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable; and

(e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 17. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every [~~proposed~~] administrative regulation ***when it is filed with the Commission***. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and

(b) The direct and indirect costs or savings, ***including the:***

1. Effect on the cost of living and employment in the geographical area in which the administrative regulation will be implemented; and [~~as well as the~~]

2. Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented; and

3. Compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second ***and subsequent years*** [~~year~~] with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and

(c) The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and

(d) An assessment of any anticipated effect on state and local revenues; and

(e) ***The source of the revenue to be used for the implementation and enforcement of the administrative regulation; and***

(f) The economic impact of the administrative regulation on the geographical area in which the administrative regulation will be implemented, and on the state, including the effects of the economic activities arising from the administrative regulation; and

(g) An assessment of alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the [~~proposed~~] administrative regulation; and

(h) An assessment of the expected benefits of the administrative regulation; and

(i) A statement:

1. Identifying the effects of the administrative regulation on the public health and environmental welfare of the geographical area in which the administrative regulation will be implemented and upon the state; and

2. Stating whether there would be a detrimental effect on the environment and public health if the administrative regulation is not implemented; and

3. If there would be a detrimental effect on the environment and public health, an explanation of the detrimental effect; and

(j)[~~(f)~~] A written statement identifying any statute, rule, regulation, or governmental policy which the [~~proposed~~] administrative regulation may be in conflict with, overlap, or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the [~~proposed~~] administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the [~~proposed~~] administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which ***the information required by subsection (1) is*** [~~subsections (1)(a) through (1)(f) are~~] based***,*** and an explanation of how the data was gathered.

Section 18. KRS 13A.250 is amended to read as follows:

(1) Each administrative body which promulgates ***an*** [~~a proposed administrative regulation, proposed amendment to an administrative regulation, repeal of an administrative regulation, or emergency~~] administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the ***administrative*** regulation a fiscal note.

(2) The form of the fiscal note shall be determined by the Commission by administrative regulation.

(3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 19. KRS 13A.270 is amended to read as follows:

(1) Not less than twenty (20) nor more than thirty (30) days following publication in the Administrative Register of the text of ***an*** [~~a proposed~~] administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (4) of this section, hold a hearing, open to the public, on the [~~proposed~~] administrative regulation.

(2) Each [~~proposed~~] administrative regulation shall state the place, time, and date of the scheduled public hearing and the manner in which interested persons may submit their notification of attending the public hearing pursuant to the provisions of this section.

(3) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) days before the scheduled date of the hearing.

(4) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) days before the scheduled hearing, and it chooses to cancel the public hearing; or

(b) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) days before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be considered.

(5) Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

(6) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (3) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(7) Nothing in this section shall be construed as requiring a separate hearing on each [~~proposed~~] administrative regulation[~~, proposed amendment to an administrative regulation or proposed repeal of an administrative regulation~~]. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 20. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date, the administrative body shall give consideration to all written and oral comments received, whether at the hearing or otherwise, regarding the [~~proposed administrative regulation, proposed amendment to an administrative regulation, or repeal of an~~] administrative regulation.

(2) The administrative body shall then file with the commission on or before 12 noon, eastern time, on the fifteenth day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) If the [~~proposed~~] administrative regulation[~~, proposed amendment of an administrative regulation, or repeal of an administrative regulation~~] is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the following to the regulations compiler by noon on the fifteenth day following the hearing:

(a) The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise;

(b) The original and five (5) copies of the statement of consideration as required by subsection (2) of this section; and

(c) The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization, agency, or other entity represented, if applicable; and
3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and
2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment" and shall contain a summary of the comment; and
2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing;

(h) If the promulgating administrative body amends the ~~[proposed]~~ administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(5) (a) If the ~~[proposed]~~ administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

(b) If the statement of consideration is not forwarded to the regulations compiler at least five (5) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 21. KRS 13A.290 is amended to read as follows:

(1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the ~~[proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency]~~ administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly

scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter.

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) An administrative body shall comply with subsection (4) of this section.

(9) The subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee as provided in KRS 13A.030(2) and (3).

(10) Following the meeting and before the next regularly scheduled meeting of the Commission the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 22. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated [~~a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of~~] an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by ***the*** [~~such~~] subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the ***administrative regulation*** [~~proposal~~].

(2) The deferring of [~~a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of~~] an administrative regulation shall have the same effect as an action under KRS 13A.310.

(3) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.

(4) Except as provided in subsections (1) to (3) of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.

Section 23. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) [~~A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~] An ***ordinary*** administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. If An ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(4) Once [~~a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~] an ***ordinary*** administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

(5) An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. ***The*** [~~Such~~] subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 24. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:

   (a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

   (b) An item is not filed on or before a deadline specified by KRS Chapter 13A; or

   (c) The administrative body has failed to comply with the provisions of KRS Chapter 13A governing the filing of administrative regulations, public hearings and the statement of consideration.

(2) [~~A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~] An administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.

Section 25. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

   (b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was:

1. Related to the {~~proposed administrative regulation or the proposed amendment to an existing~~} administrative regulation filed with the Legislative Research Commission; and
2. Considered at the public hearing; or
3. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the Administrative Register.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee the following requirements shall be met:

(a) Amendments ***offered*** {~~proposed~~} by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body;

(b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee, shall identify the administrative body, and shall state the number of the administrative regulation and the date. Such amendments shall be filed with the regulations compiler at least five (5) working days prior to the meeting of the subcommittee;

(c) The number of the section and subsection to which the amendment applies shall precede the amendment and shall be underlined; and

(d) If a word or phrase is to be deleted, the amendment shall identify the word or phrase to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase with which it is replaced. Example: Section 5, subsection (3): The word "qualify" before the phrase "of the internship program" is deleted. The word "quality" is inserted in lieu of the word "qualify."

Section 26. KRS 13A.330 is amended to read as follows:

(1) {~~A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~} An administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day a subcommittee meets to consider the ***administrative regulation*** {~~proposal~~} pursuant to KRS 13A.290(7).

(2) ***If*** {~~Where~~} a subcommittee fails to meet within thirty (30) days of assignment of ***an administrative*** {~~a proposed~~} regulation as provided in KRS 13A.290(7), the ***administrative*** {~~proposed~~} regulation{~~, amendment, or repeal thereof~~} shall become effective as of the expiration of such thirty (30) day period.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 322** is as follows:

On Page 3, Line 24, after "***public hearing***", insert "***and receive oral or written comments***"; and

On Page 4, Line 8, delete "***Twenty (20) to twenty-five (25) regular working***", and in lieu thereof insert "***Not less than twenty (20) or more than thirty (30)***"; and

On Page 5, Line 25, delete "***on or before 12 noon, eastern time, on the twentieth day***", and in lieu thereof insert "***within forty-five (45) days***"; and

On Page 6, Line 13, after "***to***", delete "***every member of the General Assembly***", and in lieu thereof insert "***a legislator upon request***"; and

On Page 11, Line 23, delete "***and***", and in lieu thereof insert "or"; and

On Page 11, Line 24, after "***(d)***", insert "***Protect human health and the environment; and (e)***"; and

On Page 11, Line 25, delete "***(e)***", and in lieu thereof insert "***(f)***"; and

On Page 12, Line 3, before "Emergency administrative", insert "***(a) Except as provided by paragraph (b) of this subsection,***"; and

On Page 12, Line 5, after "occurs first.", insert "***(b) If an administrative body extends the time for filing a statement as provided by Section 4(2) of this Act, or extends the public comment period as provided by Section 19(1) of this Act, or extends the time for filing a statement of consideration as provided by Section 20(3) of this Act, an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of Sections 4(2), 19(1) or 20(3) of this Act, as applicable.***"; and

On Page 13, Line 11, after "administrative regulation", insert "***or longer than the period authorized by subsection (3)(b) of this Section,***"; and

On Page 23, Line 10, after "***including***", insert "***, to the extent available from the public comments received,***"; and

On Page 24, Line 4, before "***The***", insert "***To the extent available from the public comments received,***"; and

On Page 25, Line 21, before "Not less", insert "***(a) Except as provided by paragraph (b) of this subsection,***", and

On Page 25, Line 25, after "regulation.", insert "*(b) If an administrative body anticipates a significant number of public comments, it may extend the public comment period for up to fifteen (15) days by notifying the commission in writing.*"; and

On Page 27, Line 12, before "If", insert "*(a) Except as provided by paragraph (b) of this subsection,*"; and

On page 27, Line 15, bracket and strike through "following", and insert in lieu thereof "*items specified in paragraph (c) of this subsection*"; and

On Page 27, Line 16, bracket and strike through ":" following the word "hearing", and insert "*.*" in lieu thereof.

On Page 27, Line 17, before "(a)", insert "*(b) If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection. (c)1.*"; and

On Page 27, Line 17, bracket and strike through "(a)"; and

On Page 27, Line 20, bracket and strike through "(b)", and in lieu thereof insert "*2.*"; and

On Page 27, Line 22, bracket and strike through "(c)", and in lieu thereof insert "*3.*"; and

Representative R. Smith moved that the House concur in the Senate Committee Substitute to **HB 322**. Rejected.

Representative R. Smith moved that the House concur in the Senate Floor Amendment No. 2 to **HB 322**. Agreed.

Representative Brown moved that the vote by which the Senate Committee Substitute to **HB 322** was rejected be reconsidered.

On the roll call to reconsider the vote on Senate Committee Substitute to **HB 322**, the vote was **Yeas 88**--Ackerson, Adams, Adkins, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Burch, Butler, Callahan, Cave, L. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Geveden, Graham, Gray, Hampton, Harper, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lile, Lindsay, Little, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Nesler, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Yates, Zimmerman. **Nays 0**.

The motion by which the vote on the Senate Committee Substitute to **HB 322** was rejected be reconsidered was adopted.

Representative R. Smith moved that the House concur in the Senate Committee Substitute to **HB 322**.

On the roll call to concur in the Senate Committee Substitute to **HB 322**, the vote was **Yeas 94**--Ackerson, Adams, Adkins, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Little, Long, Lyne, Maggard, Maricle, Marzian, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 1**--Allen.

The motion that the House concur in the Senate Committee Substitute to **HB 322** was adopted.

Representative R. Smith moved that **HB 322**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 29, 1994 roll call on **HB 322** - Appendix)

HB 322, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 322**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 327, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 327** is as follows:

On page 2, line 7, after "(c)", by adding "*1.*";

On page 2, between lines 13 and 14, by adding the following:

"*2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall*

include the number of committees, their jurisdiction, composition, and the process for membership selection."

On page 2, lines 14 to 19, by deleting the new language, brackets, and strikethroughs;

On page 2, line 14, after "(d)", by placing a "[", and on line 23, after "(e)", by placing a "]" and striking through the intervening language;

On page 2, line 27 before "(f)", by inserting "***(e)***", and by placing brackets around and striking through "(f)";

On page 3, line 3, before "(g)", by inserting "***(f)***", and by placing brackets around and striking through "(g)";

On page 3, line 9, before "(h)", by inserting "***(g)***", and by placing brackets around and striking through "(h)";

On page 3, line 15, before "(i)", by inserting "***(h)***", and by placing brackets around and striking through "(i)";

On page 3, line 25, before "(j)", by inserting "***(i)***", and by placing brackets around and striking through "(j)".

The Senate Floor Amendment No. 3 to **HB 327** is as follows:

On page 7, below 11, to add the following:

"Section 2. The General Assembly recognizes and urges protection of the right of school administrators, teachers, other school employees, and parents to exercise their rights of freedom of speech, to peaceably assemble, and to petition the government for redress of grievances as guaranteed by the First Amendment to the Constitution of the United States and Section 1 of the Constitution of Kentucky."

Representative Moberly moved that the House concur in Senate Committee Amendment No. 1 to **HB 327**. Agreed.

Representative Moberly moved that the House concur in Senate Floor Amendment No. 3 to **HB 327**. Agreed.

Representative Moberly moved that **HB 327**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 29, 1994 roll call on **HB 327** - Appendix)

HB 327, as amended by the Senate, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 327**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 442, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 442** is as follows:

On page 1, line 9, after "Board." by adding:

"***Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.***"

The Senate Committee Amendment No. 2 to **HB 442** is as follows:

On page 5, after line 19 by adding the following:

"Section 2. KRS 161.044 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall establish administrative regulations governing the qualifications of teachers' aides and adult volunteer personnel in the common schools. All teachers' aides working in kindergarten ***or with entry level students in primary*** classes and all instructional teachers' aides initially employed after July 1, 1986, except those with current teacher certification, shall ***have*** [~~be subject to the following requirements:~~

~~(a)~~] a high school diploma or a ***general*** [~~high school~~] equivalency ***diploma*** [~~certificate;~~

~~(b) A passing score on an achievement test. The content of the test and the minimum score shall be determined by the State Board for Elementary and Secondary Education;~~

~~(c) Successful completion of an in service training program established by the State Board for Elementary and Secondary Education; and~~

~~(d) An annual evaluation by the appropriate school administrator with input from the supervising teacher or teachers~~].

(2) "Noninstructional teacher's aide" means an adult who works under the direct supervision of the teaching staff in performing noninstructional functions such as clerical duties, lunch room duties, leading pupils in recreational activities,

aiding the school librarian, preparing and organizing instructional material and equipment and monitoring children during a noninstructional period. Noninstructional teachers' aides employed on a full-time basis shall possess skills necessary to perform ***their*** ~~[the]~~ duties ***and shall meet the requirements established in KRS 161.011*** ~~[outlined in this subsection as demonstrated by achieving a minimum score on a measurement instrument developed by the State Board for Elementary and Secondary Education]~~.

(3) Within the administrative regulations established by the State Board for Elementary and Secondary Education, a local district may employ teachers' aides in supplementary instructional and noninstructional activities with pupils. While engaged in an assignment as authorized under the administrative regulations, and as directed by the professional administrative and teaching staff, these personnel shall have the same legal status and protection as a certified teacher in the performance of the same or similar duties.

(4) Local districts shall give preference to applicants for the position of teacher's aide who have regular or emergency teacher certification.

(5) Within the provisions established by the State Board for Elementary and Secondary Education, local districts may utilize adult volunteer personnel in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.

(6) ***Local districts shall provide training of the instructional teacher's aide with the certified employee to whom he is assigned*** ~~[Pursuant to KRS 156.095 all teachers who have teachers' aides under their direct supervision shall receive in-service training as specified by the State Board for Elementary and Secondary Education on the effective utilization and evaluation of teachers' aides]~~."

Representative Curd moved that the House concur in Senate Committee Amendment No. 1 to **HB 442**. Agreed.

Representative Curd moved that the House concur in Senate Committee Amendment No. 2 to **HB 442**. Agreed.

Representative Curd moved that **HB 442**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 79, Nays 7. (See March 29, 1994 roll call on **HB 442** - Appendix)

HB 442, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 442**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 533, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 533** is as follows:

On page 1, line 22, after the word "Court." by inserting the following:

"***The county attorney may object to the license reinstatement after reviewing the application submitted.***"

Representative Curd moved that the House concur in Senate Committee Amendment No. 1 to **HB 533**. Rejected.

HB 622, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 622** is as follows:

HB 622, AN ACT relating to license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context clearly indicates otherwise:

(a) Motor vehicle means "vehicle" as defined in KRS 186.010(8)(a);

(b) Retailer means "retailer" as defined in KRS 139.110(1)(a); and

(c) Gross rental charge means "gross rental charge" as defined in KRS 138.462(4).

(2) A county containing a city of the first, second, or third class or urban-county government may levy a license fee on the rental or lease of motor vehicles which shall not exceed three percent (3%) of the gross rental charges from rental or lease agreements for periods of thirty (30) days or less. The license fee shall apply to retailers who receive more than fifty percent (50%) of their gross revenues generated in the county from the rental or lease of motor vehicles. Any license fee levied pursuant to this subsection shall be collected by the retailer from the renters or lessees of the motor vehicles.

(3) Revenues from rental or lease of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:

(a) The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or

(b) The rental or lease is part of the services provided by a funeral director for a funeral; or

(c) The rental or lease is exempted from the state sales and use tax pursuant to KRS 139.470.

(4) The fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.245.

(5) The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.245, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:

(a) A riverport authority established by the county pursuant to KRS 65.520; or

(b) An industrial development authority established by the county pursuant to KRS 154.50-316; or

(c) A nonprofit corporation as defined in KRS 273.161(3) which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.

SECTION 2. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) A county containing a city of the second class may levy a license fee not to exceed two percent (2%) on the gross receipts of all cable television systems within its boundaries, including systems franchised by cities within the county.

(2) The fiscal court shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the cable television license fee account.

(3) The county shall use the proceeds of the license fee to provide teleconferencing facilities and equipment and television production services, equipment, and facilities in cooperation with Kentucky Educational Television.

(4) A county which has adopted the license fee authorized by subsection (1) of this section, and any cities within the county, shall not levy a franchise fee exceeding three percent (3%) of the gross receipts of its franchised cable television system.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 622** is as follows:

On page 1, line 9, by deleting "***or lease***"; and on line 10, by deleting "***or***"; and on line 11, by deleting "***lease***"; and

On page 1, line 12, by deleting "***fifty***", and inserting in lieu thereof "***seventy-five***", and by deleting "***50***" and inserting in lieu thereof "***75***"; and

On page 1, line 13, by deleting "***the rental or lease of motor vehicles***", and inserting in lieu thereof "***gross rental charges***"; and

On page 1, line 15, by deleting "***or lessees***"; and on line 16, by deleting "***or lease***"; and on line 20, by deleting "***or lease***"; and on line 22, by deleting "***or lease***"; and on line 24, by deleting "***The***", and inserting in lieu thereof "***A***"; and

On page 2, line 25, after "***fee***", by inserting "***only***"; and on line 27, by deleting "***in cooperation***", and inserting in lieu thereof "***pursuant to an arrangement***"; and on line 27, after "***with***", by inserting "***the***"; and on line 27, after "***Kentucky***", by inserting "***Authority for***"; and on line 27, after "***Television***", by inserting "***, as specifically authorized by the General Assembly***".

Representative Callahan moved that the House concur in the Senate Committee Substitute to **HB 622**. Agreed.

Representative Callahan moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 622**. Agreed

Representative Callahan moved that **HB 622** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 48, Nays 38. (See March 29, 1994 roll call on **HB 622** - Appendix)

HB 622, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 622**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 664, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 664** is as follows:

HB 664, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 46 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall consider hazardous waste regulated unit closure plans in a manner consistent with KRS 224.01-400(18) to (21) to the extent these proposals do not conflict with state hazardous waste statutes or administrative regulations, federal statutes, or federal regulations and are otherwise protective of human health and the environment.

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In the event of a release to the environment of petroleum or a petroleum product from a source other than a petroleum storage tank, any person who owns or operates the source from which the release occurred or any person who caused the release shall characterize the extent of the release as necessary to determine the effect of the release on the environment and shall perform corrective action. "Corrective action" means those actions necessary to protect human health, safety, and the environment in the event of a release of petroleum or petroleum product from a source other than a petroleum storage tank. "Corrective action" includes remedial actions to clean up contaminated groundwater, surface waters, sediments, and soil; actions to address residual effects after initial corrective action is taken; and actions taken to restore or replace potable water supplies. "Corrective action" also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred.

(2) The cabinet shall, by administrative regulation, establish standards and procedures for the performance of corrective action in the event of a release of petroleum or petroleum products from a source other than a petroleum storage tank. The standards shall adequately protect human health, safety, and the environment. The standards and procedures shall be consistent with the standards and procedures for corrective action in the event of a release from a petroleum storage tank, taking into account the differences in exposure due to the source of the release. The administrative regulations shall allow use of the options established in KRS 224.01-400(18).

(3) Until the administrative regulations required by subsection (2) of this section are adopted, the cabinet shall allow a person required to take corrective action in the event of a release of petroleum or petroleum products from a source other than a petroleum storage tank to use the options and provisions established in KRS 224.01-400(18) to (21). The cabinet shall approve use of the corrective action option after ensuring that implementation will adequately protect human health, safety, and the environment.

Representative Brown moved that the House concur in the Senate Committee Substitute to **HB 664**. Agreed.

Representative Brown moved that **HB 664**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 9. (See March 29, 1994 roll call on **HB 664** - Appendix)

HB 664, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 664**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 681, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 681** is as follows:

HB 681, AN ACT relating to environmental audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Environmental audit" means a voluntary, internal, and comprehensive evaluation of one (1) or more

facilities or an activity at one (1) or more facilities regulated under this chapter, or federal, regional, or local counterparts or extensions thereof, or of management systems related to that facility or activity, that is designed to identify and prevent noncompliance and to improve compliance with statutory or regulatory requirements. An environmental audit may be conducted by the owner or operator, by the owner's or operator's employees, or by independent contractors; and

(b) "Environmental audit report" means a set of documents, each labeled "environmental audit report: privileged document" and prepared as a result of an environmental audit. An environmental audit report may include field notes and records of observations, findings, suggestions, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, shall have three (3) components:

1. An audit report prepared by an auditor, which shall include the scope and date of the audit and the information gained in the audit together with exhibits and appendices, and may include conclusions and recommendations;

2. Memoranda and documents analyzing part or all of the audit report and discussing implementation issues; and

3. An audit implementation plan that addresses correcting past noncompliance, improving current compliance, and preventing future noncompliance.

(2) In order to encourage owners and operators of facilities and persons conducting other activities regulated under this chapter, or its federal, regional, or local counterparts or extensions, both to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutory and regulatory requirements, an environmental audit privilege is created to protect the confidentiality of communications relating to voluntary internal environmental audits.

(3) An environmental audit report shall be privileged and shall not be admissible as evidence in any legal action in any civil, criminal, or administrative proceeding, except as provided in subsections (4) and (5) of this section.

(4) The privilege described in subsection (3) of this section does not apply to the extent that:

(a) It is waived expressly or waived by implication by the owner or operator of a facility or persons conducting an activity that prepared or caused to be prepared the environmental audit report;

(b) The owner or operator of a facility or person conducting an activity seeks to introduce an environmental audit report as evidence. Seeking to introduce any part of the report shall constitute waiver of the privilege described in subsection (3) of this section for the entire report;

(c) In a civil or administrative proceeding, a court of record, after a private review consistent with the Kentucky Rules of Civil Procedure, shall require disclosure of material for which the privilege described in subsection (3) of this section is asserted, if the court determines that:

1. The privilege is asserted for a fraudulent purpose;

2. The material is not subject to the privilege; or

3. Even if subject to the privilege, the material shows evidence of noncompliance with this chapter, or with the federal, regional, or local counterparts or extensions thereof, and appropriate efforts to achieve compliance were not promptly initiated and pursued with reasonable diligence.

(d) In a criminal proceeding, a court of record, after a private review as described in subsection (5) of this section, shall require disclosure of material for which the privilege described in subsection (3) of this section is asserted, if the court determines that:

1. The privilege is asserted for a fraudulent purpose;

2. The material is not subject to the privilege;

3. Even if subject to the privilege, the material shows evidence of noncompliance with this chapter, or with the federal, regional, or local counterparts or extensions thereof, and appropriate efforts to achieve compliance were not promptly initiated and pursued with reasonable diligence; or

4. The material contains evidence relevant to commission of an offense under subsection (3), (4), (6), (10), or (11) of KRS 224.99-010, and the prosecuting authority has a need for the information.

(e) A party asserting the environmental audit privilege in subsection (3) of this section has the burden of proving the privilege, including, if there is evidence of noncompliance with this chapter, or the federal, regional, or local counterparts or extensions thereof, proof that appropriate efforts to achieve compliance were promptly initiated and pursued with reasonable diligence. A party seeking disclosure under subsection (4)(c)1. of this section has the burden of proving that the privilege is asserted for a fraudulent purpose. The prosecuting

authority seeking disclosure under subsection (4)(d)4. of this section has the burden of proving the conditions for disclosure set forth in subsection (4)(d)4. of this section. The party seeking disclosure under subsection (4)(d)1. of this section has the burden of proving that the privilege is asserted for a fraudulent purpose.

(5) (a) The prosecuting authority, having probable cause to believe an offense has been committed under subsection (3), (4), (6), (10), or (11) of KRS 224.99-010, based upon information obtained from a source independent of an environmental audit report, may obtain an environmental audit report for which a privilege is asserted under subsection (3) of this section pursuant to a search warrant, criminal subpoena, or discovery as allowed by the Kentucky Rules of Criminal Procedure or any applicable statute. The prosecuting authority shall immediately place the report under seal and shall not review or disclose its contents.

(b) Within twenty (20) days of the prosecuting authority obtaining an environmental audit report, the owner or operator who prepared or caused to be prepared the report, or the prosecuting authority, may file with the appropriate court a petition requesting a private hearing on whether the environmental audit report or portions thereof are privileged under this section or subject to disclosure. Failure by the owner or operator to file such a petition shall waive the privilege.

(c) Upon filing a petition, the court shall issue an order scheduling a private hearing, within thirty (30) days of the filing of the petition, to determine whether the environmental audit report or parts of the report are privileged under this section or subject to disclosure. The order shall also allow the prosecuting authority immediately to remove the seal from the report and to review the entire report and shall place appropriate limitations on distribution and review of the report to protect against unnecessary disclosure. The prosecuting authority may consult with enforcement agencies regarding the contents of the report as necessary to prepare for the private hearing. However, the information used in preparation for the private hearing shall not be used in any investigation or in any proceeding against the defendant, and shall otherwise be kept confidential, unless and until the information is found by the court to be subject to disclosure.

(d) The parties may at any time stipulate to the entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege provided under subsection (3) of this section.

(e) Upon making a determination under subsection (4)(c) of this section, the court may compel the disclosure only of those portions of an environmental audit report relevant to issues in dispute in the proceeding.

(6) The privilege described in subsection (3) of this section shall not extend to:

(a) Documents, communications, data, reports, or other information required to be collected, developed, maintained, reported, or made available to a regulatory agency pursuant to this chapter, or administrative regulations promulgated pursuant thereto, or other federal, state, or local law, ordinance, regulation, permit, or order, and any information developed relating to any release subject to KRS 224.01-400(19);

(b) Information obtained by observation, sampling, or monitoring by any regulatory agency; or

(c) Information obtained from a source independent of the environmental audit.

(7) Nothing in this section shall limit, waive, or abrogate the scope or nature of any statutory or common law privilege, including the work product doctrine and the attorney-client privilege.

(8) Nothing in this section shall limit, waive, or abrogate any reporting requirement in accordance with KRS Chapter 224 or permit conditions.

(9) An environmental audit report found subject to disclosure under subsection (4)(c) of this section shall not be deemed privileged in any criminal proceeding.

Representative Brown moved that the House concur in the Senate Committee Substitute to **HB 681**. Agreed.

Representative Brown moved that **HB 681**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 6. (See March 29, 1994 roll call on **HB 681** - Appendix)

HB 681, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 681**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 46, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 46** is as follows:

On page 1, line 2 after *(1),* by deleting the words *"As used in* ", and inserting in its place the words *"For purposes of* ";

On page 1, line 2 , after the word "***section***" , by removing the "***,***" and inserting in its place "***the term***";

On page 1, line 4, after the word "***Pacific Islander;***", by deleting the word "***Asian;***";

On page 1, line 5 by deleting the word "***underrepresented***";

On page 1, lines 5 and 6, after the words "***ethnic group***", by deleting the remaining language on lines 5 and 6, and inserting in its place the following: "***underrepresented in a local school district.***"

On page 1, line 18, after the word "***more***" by inserting the following: "***, as determined by the enrollment on the preceding October 1,***"; and

On page 2, after line 1, by inserting the following:

"Section 2. Whereas it is necessary to ensure that the minority population has representation on superintendent screening committees, an emergency is declared to exist, and the Act shall become effective upon its passage and approval by the Governor."

The Senate Floor Amendment No. 2 Title to **HB 46** is as follows:

By amending the title to read as follows:

"AN ACT relating to superintendent screening committees, and declaring an emergency."

Representative Scorsone moved that the House concur in Senate Floor Amendment No. 1 to **HB 46**. Agreed.

Representative Scorsone moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 46**. Agreed.

Representative Scorsone moved that **HB 46**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 75, Nays 11. (See March 29, 1994 roll call on **HB 46** - Appendix)

HB 46, as amended by the Senate, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 46**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 56, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 56** is as follows:

On page 1, line 3, after "***various***" insert "***executive branch***"; and

On page 1, line 11, after "***that***" insert "***executive branch***"; and

On page 1, line 15, after "***among***" insert "***executive branch***"; and

On page 1, line 19, before "***agencies***" insert "***executive branch***"; and

On page 2, line 6, delete "***across all branches***" and insert in lieu thereof "***throughout the executive branch***"; and

On page 3, line 20, delete "***a***" and insert in lieu thereof "***an executive branch***"; and

On page 4, line 2, after "in" insert "***the executive branch of***"; and

On page 7, line 16, after "***for***" insert "***the executive branch of***"; and

On page 7, line 20, after "by" insert "***agencies of the executive branch***"; and

On page 7, lines 20 and 21, place brackets around and strike through "the three (3) branches and constitutional offices of government"; and

On page 8, line 2, after "***by***" insert "***executive branch***"; and

On page 8, line 6, after "***for***" insert "***executive branch***"; and

On page 8, line 12, delete "***across all three (3) branches***" and insert in lieu thereof "***throughout the executive branch***"; and

On page 8, line 14, after "***part,***" insert "***executive branch***"; and

On page 8, line 24, after "***and the***" insert "***executive branch***"; and

On page 9, line 1, after "***development of***" insert "***executive branch***"; and

On page 9, line 3, after "***require***" insert "***executive branch***"; and

On page 13, line 7, after "***Commonwealth***" insert "***within the executive branch***"; and

On page 13, delete line 15 in its entirety; and

On page 13, line 16, delete "***agencies and subdivisions, with particular emphasis***" and insert in lieu thereof "***executive branch of state government, including its departments, officers, agencies, and subdivisions; public universities; and local government. Particular emphasis shall be placed***"; and

On page 13, line 20, after "***by***" insert "***executive branch***"; and

On page 14, line 1, after "***among***" insert "***executive branch***"; and

On page 14, after line 1, insert the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 7 of this Act shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the Kentucky Information Resources Management Commission or the Office for the Kentucky Information Resources Management Commission.".

The Senate Committee Amendment No. 2 to **HB 56** is as follows:

On page 5, following line 9, by inserting:

"***(i) The executive director of the Kentucky Authority for Educational Television;***"; and

On page 5, line 10, by deleting "***(i)***" and inserting "***(j)***" in lieu thereof; and

On page 5, line 12, by deleting "***(j)***" and inserting "***(k)***" in lieu thereof; and

On page 6, line 19, by deleting "***(g), (h) and***" and inserting "***(c), (d),***" in lieu thereof, and following "***(i)***", by inserting "***, (j), and (k)***"; and

On page 6, line 24, by deleting "***(c),***"; and

On page 6, line 25, by deleting "***(d),***", by deleting "***and***", and following "***(f)***", by inserting "***, (g), and (h)***".

Representative Donnermeyer moved that the House concur in Senate Committee Amendment No. 1 to **HB 56**. Agreed.

Representative Donnermeyer moved that the House concur in Senate Committee Amendment No. 2 to **HB 56**. Agreed.

Representative Donnermeyer moved that **HB 56**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 29, 1994 roll call on **HB 56** - Appendix)

HB 56, as amended by the Senate, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 56**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 58, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute No. 2 to **HB 58** is as follows:

HB 58, AN ACT relating to deputy sheriff merit training programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.263 is amended to read as follows:

(1) Each person serving as a deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall, within one (1) year following the effective date of that ordinance, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(2) Each person appointed as a deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall, within one (1) year following the appointment, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(3) ***A deputy sheriff whose official duty is to provide security service to the courts, and who is compensated pursuant to KRS 64.092, shall, the provisions of subsections (1) and (2) of this section notwithstanding, satisfy the training requirements for employment if he completes law enforcement training which the Administrative Office of the Courts certifies to the sheriff as acceptable. If the training was not received prior to the effective date of the ordinance creating the deputy sheriff merit board, in the case of a deputy sheriff serving when the ordinance was passed, or prior to appointment in the case of a deputy sheriff appointed after the effective date of the ordinance, then it shall be received within one (1) year following the effective date of the ordinance or the date of appointment, as the case may be.***

(4) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

Representative Lindsay moved that the House concur in the Senate Committee Substitute No. 2 to **HB 58**. Agreed.

Representative Lindsay moved that **HB 58**, by way of Senate Committee Substitute No. 2, be passed.

On the roll call the vote was: Yeas 82, Nays 4. (See March 29, 1994 roll call on **HB 58** - Appendix)

HB 58, by way of Senate Committee Substitute No. 2, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 58**, by way of Senate Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 205, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 205** is as follows:

HB 205, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 610.070 is amended to read as follows:

(1) All cases involving children brought before the court shall be granted a speedy hearing and shall be dealt with by the court without a jury.

(2) The hearings shall be conducted in a formal manner, unless specified to the contrary by other provisions of KRS Chapters 600 to 645.

(3) The general public shall be excluded and only the immediate families or guardians of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, ***the victim, his parent or legal guardian, or if emancipated, his spouse, or a legal representative of either,*** such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed to by the child and his attorney may be admitted to the hearing. ***A parent, legal guardian, or spouse of a witness shall be admitted to the hearing only during and after his testimony at the hearing, and*** witnesses shall be admitted to the hearing only for the duration of their testimony. ***The court may order the exclusion of a parent, legal guardian, or spouse, if it is shown to the satisfaction of the court that the parent, legal guardian, or spouse may physically disrupt the proceedings or may do violence to any participant therein. The mere presence of a parent, legal guardian, or spouse shall not be deemed to be a disruption of the proceedings merely because their presence may make the defendant uncomfortable; the court shall find a potential for actual physical disruption of the proceedings before an exclusion may be granted for this reason.***

(4) If the court finds it to be in the best interest of the child, the court may order the parents, guardians, or persons exercising custodial control over the child to be present at any hearing or other proceeding involving the child.

Representative Geveden moved that the House concur in the Senate Committee Substitute to **HB 205**. Agreed.

Representative Geveden moved that **HB 205**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 29, 1994 roll call on **HB 205** - Appendix)

HB 205, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 205**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 399, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 399** is as follows:

On page 1, line 7, after "landfill" by removing the bracket before and strikethrough of "[~~unless the landfill operator has~~"; and

On line 8, by removing the strikethrough of all the text thereon, and after "disposal in" by inserting "***the***" and placing brackets around and striking through "a"; and

On line 9, by removing the strikethrough and bracket around the text thereon.

Representative Brown moved that the House concur in Senate Committee Amendment No. 1 to **HB** 399. Agreed.

Representative Brown moved that **HB 399**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See March 29, 1994 roll call on **HB 399** - Appendix)

HB 399, as amended by the Senate, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 399**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 639, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 639** is as follows:

On page 4, line 21, after the semicolon ";" by removing the opening bracket "[" and closing bracket "]" from the word "and" and by removing the strikethroughs from the word "and"; and

On page 4, line 25, after the word "Regulation" delete "***; and***"; and

On page 4, lines 26 and 27, by deleting lines 26 and 27 in their entirety; and

On page 5, lines 1 through 9, by deleting lines 1 through 9 in their entirety; and

On page 5, line 10, by deleting "***insurance to the county clerk***"; and

On page 6, beginning on line 22 and continuing through page 9, line 14, remove "Section 4" from the bill.

Representative Curd moved that the House refuse to concur in Senate Floor Amendment No. 1 to **HB 639**. Agreed.

HB 647, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 647** is as follows:

On page 4, line 10, by deleting "***(50.00)***"and removing the brackets and strikethroughs.

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 647**. Agreed.

Representative Long moved that **HB 647**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 67, Nays 17. (See March 29, 1994 roll call on **HB 647** - Appendix)

HB 647, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 647**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 232**, by Representative Lewis:

On page 1, line 5, by removing the brackets and strikethroughs from "and" and by deleting "***, or repair***"; and

On page 1, line 14, by deleting the words "***to abate a public health nuisance***"; and

On page 1, lines 14 through 17, by removing the brackets and strikethroughs; and

On page 2, line 6, by removing the brackets and strikethroughs from "and" and by deleting "***, or repair***".

Orders of the Day (Continued)

HB 830, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 830** is as follows:

On page 5, after line 16 by adding the following:

"Section 3. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the State Board for Elementary and Secondary Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) The teachers' salaries allotment for each district from the public school fund and from local sources shall be used only for teachers holding properly authorized certificates. The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year or the allotment under KRS 157.390(3) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The State Board for Elementary and Secondary Education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for salaries paid from the base funding is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for instructional salaries paid with state funds the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same rank and experience of teachers in the current year as in the preceding year.

(3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.

(4) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the State Board for Elementary and Secondary Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the State Board for Elementary and Secondary Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(5) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the State Board for Elementary and Secondary Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(6) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (4) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(7) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the State Board for Elementary and Secondary Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

(8) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

Representative Curd moved that the House concur in Senate Committee Amendment No. 1 to **HB 830**. Agreed.

Representative Curd moved that **HB 830**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 79, Nays 1. (See March 29, 1994 roll call on **HB 830** - Appendix)

HB 830, as amended by the Senate, was passed and the title agreed to.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 127, HB 276, HB 300, HB 334, HB 482, HB 519, HB 539, HB 631, HB 633, HB 643, HB 656, HB 685, HB 733, HB 744, HB 760, HB 814, HB 815, HB 826, HB 855, HB 890, HCR 74, HJR 82, HJR 91** and **HCR 108** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:16 p.m.)

HB 127, HB 276, HB 300, HB 334, HB 482, HB 519, HB 539, HB 631, HB 633, HB 643, HB 656, HB 685, HB 733, HB 744, HB 760, HB 814, HB 815, HB 826, HB 855, HB 890, HCR 74, HJR 82, HJR 91 and **HCR 108** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 1994 at 4:50 p.m.

Orders of the Day (Continued)

HB 928, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that **HB 928** be returned to the Orders of the Day and retain its position. Agreed.

HB 488, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 488** is as follows:

On page 9, line 24, by deleting "March 16" and inserting "April 16" in lieu thereof.

Representative Curd moved that the House concur in Senate Committee Amendment No. 1 to **HB 488**. Rejected.

Senate Message (Continued)

SB 50 returned with the following message: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 50** and respectfully returns it with the request that this Honorable Body recede from the Amendment.

SB 51 returned with the following message: The Senate has refused to concur in the House Committee Substitute to **SB 51** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute.

SB 258 returned with the following message: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 258** and respectfully returns it with the request that this Honorable Body recede from the Amendment. (Time: 4:35 p.m.)

Orders of the Day (Continued)

HB 481, with Senate Committee Amendments and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 481** is as follows:

On page 3, line 25, by deleting "***thirty (30)***" and inserting in lieu thereof "***one hundred twenty (120)***"; and

On page 5, line 11, by deleting "*thirty (30)*" and inserting in lieu thereof "*sixty (60)*"; and

On page 5, by deleting line 27 and all remaining lines of the bill on page 6 and inserting in lieu thereof the following:

"*(2) A person who submits a corrective action proposal to the cabinet may request in writing a final determination on the proposal no sooner than thirty (30) days after its submission. When a final determination on the proposal is requested, the cabinet shall make its final determination within sixty (60) working days from the date the request is received by the cabinet. After a final determination has been made, the person requesting the final determination may request a hearing pursuant to the provisions of KRS 224.10-420. Nothing in this subsection shall relieve any person of any obligations imposed by law during an environmental emergency, nor shall it require the cabinet to approve a proposal which would violate this chapter or the administrative regulations promulgated pursuant thereto.*

Section 4. Whereas standards for the performance of corrective actions for release from petroleum storage tanks are necessary to protect public health, safety, and the environment, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

The Senate Floor Amendment No. 3 to **HB 481** is as follows:

On page 5, line 18, by deleting the word "*promulgated*" and in lieu thereof insert the words "*adopted and effective pursuant to the provisions of KRS 13A.330*".

The Senate Committee Amendment No. 2 Title is as follows:

By amending the title to read as follows:

"AN ACT relating to environmental protection and declaring an emergency."

Representative Brown moved that the House concur in Senate Committee Amendment No. 1 to **HB 481**. Agreed.

Representative Brown moved that the House concur in Senate Floor Amendment No. 3 to **HB 481**. Agreed.

Representative Brown moved that the House concur in Senate Committee Amendment No. 2 Title to **HB 481**. Agreed.

Representative Brown moved that **HB 481**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 29, 1994 roll call on **HB 481** - Appendix)

HB 481, as amended by the Senate, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 481**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Little moved that the vote by which Senate Committee Amendment No. 1 to **HB 488** was rejected be reconsidered and the bill be placed in the Orders of the Day.

On the roll call to reconsider the vote by which Senate Committee Amendment No. 1 to **HB 488** was rejected and placed in the Orders of the Day, the vote was **Yeas 84**--Ackerson, Adams, Adkins, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Heleringer, Johnson, Kerr, Lee, LeMaster, Lewis, Lile, Lindsay, Little, Long, Lyne, Maggard, Marzian, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Richards, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Wayne, Worthington, Yates, Zimmerman. **Nays 2**--Keith, Mullinix.

The motion that the vote by which Senate Committee Amendment No. 1 to **HB 488** was rejected be reconsidered and be placed in the Orders of the Day was adopted.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon several Resolutions. Agreed.

Representative Stumbo moved the adoption of the following **HR 110**:

HR 110, A RESOLUTION directing the Kentucky State Board of Registration for Professional Engineers and Land Surveyors to review its requirement of reexamination and its complaint, investigation, and hearing procedures to insure fairness to all its registrants.

WHEREAS, many registered land surveyors from across the Commonwealth of Kentucky have voiced concerns regarding the requirement of reexamination for continued licensure and the board's method of receiving complaints, conducting investigations, and the procedure for conducting disciplinary hearings against registered land surveyors in Kentucky; and

WHEREAS, the board, in the exercise of its discretion, has initiated a policy of conducting investigations and spot checking projects completed by registered land surveyors in the Commonwealth of Kentucky; and

WHEREAS, the board, in the exercise of its discretion, has initiated a policy of requiring the investigated registered land surveyor to bear the cost of these investigations and spot checks, which may result in substantial additional charges;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky State Board of Registration for Professional Engineers and Land Surveyors is directed to review its requirement of reexamination for continued licensure and its complaint, investigation, and hearing procedures to insure fairness to all registered land surveyors in the Commonwealth of Kentucky.

Section 2. That the board is urged to review the construction of the examination administered to applicants for registration as land surveyors, to determine whether the examination is too restrictive, designed appropriately, and administered properly and fairly.

Section 3. That the board is urged to review its policy and practice of conducting investigations of registered land surveyors and spot checking projects completed by registered land surveyors in the Commonwealth of Kentucky.

Section 4. That the board is urged to review its policy and practice of requiring registered land surveyors under investigation to bear the cost of investigations and spot checks in the Commonwealth of Kentucky.

Section 5. That the board is urged to establish, and promulgate by administrative regulation, a reasonable penalty schedule for all registered land surveyors.

Section 6. That the board is urged to initiate investigations of registered land surveyors based only upon written complaints or appropriate court action.

Section 7. That the board is urged to review and reconsider the revocation of any land surveyor registration and the imposition of any administrative fine against a registered land surveyor in the Commonwealth of Kentucky during the previous twenty-four months.

Section 8. That the board is urged to implement a policy of not prohibiting a registered land surveyor, under investigation by the board, from conducting business in the Commonwealth of Kentucky until a final decision has been rendered in his case and all appeals have been exhausted.

Section 9. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Kentucky State Board of Registration for Professional Engineers and Land Surveyors.

HR 110 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 114**:

HR 114, A RESOLUTION recommending the designation of Ballard County, Kentucky; Alexander County, Illinois; and Mississippi County, Missouri, as a Federal Rural Empowerment Zone and Enterprise Community.

WHEREAS, the Federal government has recently promulgated an interim rule for the Federal Empowerment Zone and Enterprise Community Program and published guidelines pursuant thereto, requiring applications to be submitted by June 30, 1994, for Fiscal Year 1994; and

WHEREAS, the purpose of the Federal Empowerment Zone and Enterprise Community Program is to provide for local communities and areas to undertake rural development in the most chronically distressed rural communities in the nation; and

WHEREAS, many poor counties are located in rural Kentucky, Illinois, and Missouri; and

WHEREAS, the state and local governments or state chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Agriculture as a Federal Empowerment Zone or Enterprise Community; and

WHEREAS, local leaders are in the process of identifying the boundaries of the communities and areas to be nominated, and partnerships among states with shared communities and common issues are encouraged to make application;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives commends the communities of Ballard County, Kentucky; Alexander County, Illinois; and Mississippi County, Missouri, for their efforts to provide new economic opportunities and sustainable community development in these rural communities.

Section 2. The House of Representatives strongly urges the United States Department of Agriculture to designate

Ballard County, Kentucky; Alexander County, Illinois; and Mississippi County, Missouri, as a Federal Empowerment Zone, pursuant to the Federal Empowerment Zone and Enterprise Community Program.

Section 3. The House of Representatives urges agencies of the Commonwealth, as well as those in Illinois and Missouri, to support and encourage the partnership efforts created by Ballard County, Kentucky; Alexander County, Illinois; and Mississippi County, Missouri, to achieve greater economic opportunity and sustainable economic development.

Section 4. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the chief executive officers in local governments, excluding school and special districts, within Ballard County, Kentucky; Alexander County, Illinois; and Mississippi County, Missouri.

HR 114 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 113**:

HR 113, A RESOLUTION urging Congress to rename the New Federal Building at 600 Federal Place in Louisville, in honor of United States Representative Romano Mazzoli.

WHEREAS, Romano Mazzoli was born in Louisville, Jefferson County, Kentucky, on November 2, 1932; and

WHEREAS, Romano Mazzoli attended grade school in Louisville, Kentucky, and went on to graduate from the University of Louisville Law School in 1960; and

WHEREAS, after serving in the Army, Romano Mazzoli was admitted to the Kentucky Bar and commenced practice in Louisville, Kentucky; and

WHEREAS, Romano Mazzoli lectured on business law at Bellarmine College in Louisville and was subsequently elected to the Kentucky State Senate; and

WHEREAS, Romano Mazzoli was elected as a Representative to the United States Congress in 1971 and has served the Commonwealth and his country in an exemplary capacity ever since;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby urge the Congress of the United States to recognize the tireless efforts of our good Representative Romano Mazzoli from Louisville by renaming the New Federal Building at 600 Federal Place in Louisville, in his honor.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to each member of the Commonwealth's Congressional Delegation.

HR 113 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 115**:

HR 115, A RESOLUTION recommending the designation of Fulton County, Kentucky; Lake County, Tennessee; and parts of Pemiscott and New Madrid Counties, Missouri, as a Federal Rural Empowerment Zone and Enterprise Community.

WHEREAS, the Federal government has recently promulgated an interim rule for the Federal Empowerment Zone and Enterprise Community Program and published guidelines pursuant thereto, requiring applications to be submitted by June 30, 1994, for Fiscal Year 1994; and

WHEREAS, the purpose of the Federal Empowerment Zone and Enterprise Community Program is to provide for local communities and areas to undertake rural development in the most chronically distressed rural communities in the nation; and

WHEREAS, many poor counties are located in rural Kentucky, Tennessee, and Missouri; and

WHEREAS, the state and local governments or state chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Agriculture as a Federal Empowerment Zone or Enterprise Community; and

WHEREAS, local leaders are in the process of identifying the boundaries of the communities and areas to be nominated, and partnerships among states with shared communities and common issues are encouraged to make application;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives commends the communities of Fulton County, Kentucky; Lake County, Tennessee; and parts of Pemiscott and New Madrid Counties, Missouri, for their efforts to provide new economic opportunities and sustainable community development in these rural communities.

Section 2. The House of Representatives strongly urges the United States Department of Agriculture to designate Fulton County, Kentucky; Lake County, Tennessee; and parts of Pemiscott and New Madrid Counties, Missouri, as a Federal

Empowerment Zone, pursuant to the Federal Empowerment Zone and Enterprise Community Program.

Section 3. The House of Representatives urges agencies of the Commonwealth, as well as those in Tennessee and Missouri, to support and encourage the partnership efforts created by Fulton County, Kentucky; Lake County, Tennessee; and parts of Pemiscott and New Madrid Counties, Missouri, to achieve greater economic opportunity and sustainable economic development.

Section 4. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the chief executive officers in local governments, excluding school and special districts, within Fulton County, Kentucky; Lake County, Tennessee; and parts of Pemiscott and New Madrid Counties, Missouri.

HR 115 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 116**:

HR 116, A RESOLUTION recommending the designation of McCreary County, Kentucky, and Scott County, Tennessee, as a Federal Empowerment Zone and Enterprise Community.

WHEREAS, the Federal government has recently promulgated an interim rule for the Federal Empowerment Zone and Enterprise Community Program and published guidelines pursuant thereto, requiring applications to be submitted by June 30, 1994, for Fiscal Year 1994; and

WHEREAS, the purpose of the Federal Empowerment Zone and Enterprise Community Program is to provide for local communities and areas to undertake rural development in the most chronically distressed rural communities in the nation; and

WHEREAS, many of the poorest counties in Appalachia are located in Kentucky and Tennessee; and

WHEREAS, the state and local governments or state-chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Agriculture as a Federal Empowerment Zone or Enterprise Community; and

WHEREAS, local leaders are in the process of identifying the boundaries of the communities and areas to be nominated, and partnerships among states with shared communities and common issues are encouraged to make application;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives commends the communities of McCreary County, Kentucky, and Scott County, Tennessee, for their efforts to provide new economic opportunities and sustainable community development in these Appalachian and poor communities, where the poverty rate is more than twice the national average.

Section 2. The House of Representatives strongly urges the United States Department of Agriculture to designate McCreary County, Kentucky, and Scott County, Tennessee, with Scott-McCreary Area Revitalization Team (SMART) as the lead agency, as a Federal Empowerment Zone, pursuant to the Federal Empowerment Zone and Enterprise Community Program.

Section 3. The House of Representatives urges agencies of the Commonwealth, as well as those in Tennessee, to support and encourage the partnership efforts created by McCreary County, Kentucky, and Scott County, Tennessee, to achieve greater economic opportunity and sustainable economic development.

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Resolution to the chief executive officers in local governments, excluding school and special districts, within McCreary County, Kentucky, and Scott County, Tennessee.

HR 116 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 117**:

HR 117, A RESOLUTION recommending the designation of Floyd and Martin Counties of Kentucky, and Wayne and Mingo Counties of West Virginia, as a Federal Rural Empowerment Zone and Enterprise Community.

WHEREAS, the Federal government has recently promulgated an interim rule for the Federal Empowerment Zone and Enterprise Community Program and published guidelines pursuant thereto, requiring applications to be submitted by June 30, 1994, for Fiscal Year 1994; and

WHEREAS, the purpose of the Federal Empowerment Zone and Enterprise Community Program is to provide for local communities and areas to undertake rural development in the most chronically distressed rural communities in the nation; and

WHEREAS, many of the poorest counties in Appalachia are located in Kentucky and West Virginia; and

WHEREAS, the state and local governments or state chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Agriculture as a Federal Empowerment Zone or Enterprise Community; and

WHEREAS, local leaders are in the process of identifying the boundaries of the communities and areas to be nominated, and partnerships among states with shared communities and common issues are encouraged to make application;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives commends the communities of Floyd and Martin Counties of Kentucky, and Wayne and Mingo Counties of West Virginia, for their efforts to provide new economic opportunities and sustainable community development in these Appalachian communities.

Section 2. The House of Representatives strongly urges the United States Department of Agriculture to designate Floyd and Martin Counties of Kentucky, and Wayne and Mingo Counties of West Virginia, as a Federal Empowerment Zone, pursuant to the Federal Empowerment Zone and Enterprise Community Program.

Section 3. The House of Representatives urges agencies of the Commonwealth, as well as those in West Virginia, to support and encourage the partnership efforts created by Floyd and Martin Counties of Kentucky, and Wayne and Mingo Counties of West Virginia, to achieve greater economic opportunity and sustainable economic development.

Section 4. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the chief executive officers in local governments, excluding school and special districts, within Floyd and Martin Counties of Kentucky, and Wayne and Mingo Counties of West Virginia.

HR 117 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 118**:

HR 118, A RESOLUTION recommending the designation of Whitley County, Kentucky and Campbell County, Tennessee, as a Federal Empowerment Zone and Enterprise Community.

WHEREAS, the Federal government has recently promulgated an interim rule for the Federal Empowerment Zone and Enterprise Community Program and published guidelines pursuant thereto, requiring applications to be submitted by June 30, 1994, for Fiscal Year 1994; and

WHEREAS, the purpose of the Federal Empowerment Zone and Enterprise Community Program is to provide for local communities and areas to undertake rural development in the most chronically distressed rural communities in the nation; and

WHEREAS, many of the poorest counties in Appalachia are located in Kentucky and Tennessee; and

WHEREAS, the state and local governments or state-chartered economic development corporations are to nominate the communities and areas to be designated by the United States Department of Agriculture as a Federal Empowerment Zone or Enterprise Community; and

WHEREAS, local leaders are in the process of identifying the boundaries of the communities and areas to be nominated, and partnerships among states with shared communities and common issues are encouraged to make application;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives commends the communities of Whitley County, Kentucky and Campbell County, Tennessee, for their efforts to provide new economic opportunities and sustainable community development in these Appalachian and poor communities, where the poverty rate is more than twice the national average.

Section 2. The House of Representatives strongly urges the United States Department of Agriculture to designate Whitley County, Kentucky and Campbell County, Tennessee, as a Federal Empowerment Zone, pursuant to the Federal Empowerment Zone and Enterprise Community Program.

Section 3. The House of Representatives urges agencies of the Commonwealth, as well as those in Tennessee, to support and encourage the partnership efforts created by Whitley County, Kentucky and Campbell County, Tennessee, to achieve greater economic opportunity and sustainable economic development.

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Resolution to the chief executive officers in local governments, excluding school and special districts, within Whitley County, Kentucky and Campbell County, Tennessee.

HR 118 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 119**:

HR 119, A RESOLUTION opposing any increase in the federal excise tax on cigarettes.

WHEREAS, tobacco is the leading cash crop in Kentucky and is grown throughout the state; and

WHEREAS, increased taxes on tobacco would reduce consumption and production; and

WHEREAS, a reduction in tobacco production would have a devastating effect on Kentucky's economy and social fabric;

and

WHEREAS, present taxes on tobacco already are excessive; and

WHEREAS, no industry group such as farmers, no single commodity such as tobacco, or no single state such as Kentucky should be singled out to bear the cost of health care reform;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the Kentucky General Assembly opposes any increase in the cigarette federal excise tax.

Section 2. That this resolution be transmitted to the President of the United States and to the Kentucky Congressional Delegation.

HR 119 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 120**:

HR 120, A RESOLUTION in recognition of Arbor Day and honoring the Kentucky Wood Industry.

WHEREAS, there is an awareness in the world today that the cultivation of trees is essential for the survival of mankind; and

WHEREAS, April 1, 1994, is Arbor Day, a day designated for planting trees and reviving the earth; and

WHEREAS, Kentucky has 12,660,000 acres of commercial forest land; and

WHEREAS, forty-nine percent of the land in Kentucky is forested; and

WHEREAS, the Kentucky Division of Forestry has written 7,358 Forest Management Plans and 3,198 Forest Stewardship Plans, covering 869,514 acres in the last ten years; and

WHEREAS, the Kentucky Division of Forestry has assisted landowners in tree planting, direct seeding, and natural regeneration on 56,079 plus acres in the last ten years; and

WHEREAS, the forest products industry is currently harvesting about half of what is being grown; and

WHEREAS, Kentucky is the fourth largest hardwood producer in the United States; and

WHEREAS, 26,000 Kentuckians are employed in Kentucky's wood industry; and

WHEREAS, 105 of Kentucky's 120 counties have some type of wood industry present; and

WHEREAS, the primary and secondary forest products processing plants comprise over 1,000 manufacturing plants and individual processors; and

WHEREAS, the Kentucky Forest Industries Association sponsors the Tree Farmers Program which contains 888 certified timberlots, and works with the Kentucky Division of Forestry in the 44 certified Stewardship Forest Programs for a total of 267,925 plus acres in both programs under forest management;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes the importance of Arbor Day and the benefits that trees bring to our society, to industry, to the Commonwealth, to our country and to our world.

Section 2. That this honorable body proudly hails the Kentucky Forest Industries Association for its invaluable service and the impact it has had toward educating the citizens of our great Commonwealth on the importance of trees in our communities.

Section 3. That this honorable body enthusiastically supports the Kentucky Forest Industries Association and urges that the citizens of our Commonwealth plant trees on April 1, 1994, in recognition of Arbor Day.

Section 4. That this honorable body is indeed appreciative to the wood industry in Kentucky and the economic benefits it has provided to all Kentuckians, present and future.

Section 5. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Jim Lee, Kentucky Forest Industries Association, 310 Kings Daughters Drive #7, Frankfort, Kentucky 40601.

HR 120 was adopted by voice vote.

Representative Graham moved the adoption of the following **Legislative Citation No. 108**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commemorates the 100th Anniversary of Natural Bridge State Resort Park. When the Kentucky State Park System was founded in 1926, Natural Bridge was donated to the state by the Louisville & Nashville Railroad, and it became one of the four original Kentucky State Parks. Long since the early days of logging, railroad, and the black gold booms in eastern Kentucky, people have come from all over the world to find relief from respiratory disorders by breathing the pollution free air, while enjoying the serene landscape and virgin beauty of the trees and wild flowers that grow along the Red River Gorge. The entire membership joins Representative Drew Graham and Representative Adrian Arnold in celebration of a truly magnificent God given splendor, The Natural Bridge State Resort Park.

Representative Coleman moved the adoption of the following **Legislative Citation No. 150**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your efforts and offers its sincerest congratulations to the Spencer County High School Cheerleading Squad in recognition of your many accomplishments during the 1993-94 school year. Your determination and hard work to poise/appearance, sportsmanship, and cheer routines has allowed you to capture the state championship for 1994. The House of Representatives joins with Representative Jack Coleman in honoring you on your many achievements as cheerleaders and wishes you every success as you further your academic and athletic careers.

Representative French moved the adoption of the following **Legislative Citation No. 144**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Rhonda W. Huddleston for her outstanding contributions to the Commonwealth while serving as Deputy Commissioner of the Department of Financial Institutions from April, 1992 to March, 1994. Mrs. Huddleston's previous experience in the practice of law and in the banking industry was invaluable in major innovations in that Department during her tenure. The entire membership joins Representative Kenny French, and your colleagues at the Department of Financial Institutions in extending its very best wishes on this memorable occasion and expresses the hope for a lifetime of joy and happiness while you devote your time to raising your daughters, Caroline and Katie, and success as you resume your law practice with your husband Steve.

Representative Deskins moved the adoption of the following **Legislative Citation No. 147**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Clayton Little the gentleman from Pike 93, that phenomenal individual, whose wisdom and skillful arbitration has become a well-respected landmark in the House of Representatives. Whereas, the gentleman from Pike 93 has served the people of Pike County virtuously and conscientiously for twenty years; and, whereas, the gentleman from Pike 93 has ingeniously guided the House Transportation Committee through many controversial issues and judiciously piloted his companion East Kentuckians as chairman of the Mountain Caucus through many rough storms as well as sunny skies; this prestigious body does hereby acclaim the exceptional merits of this extraordinary statesman and extends every hope that his years of retirement are filled with every just reward due this esteemed and revered gentleman.

Roll call to show co-sponsors of **Legislative Citation No. 147**: --Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman.

Representative Mason moved the adoption of the following **Legislative Citation No. 148**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its most sincere condolences and genuine expressions of sympathy for the death of Dr. Edgar Allan Moles. Members of the House of Representatives do honor said individual and his family and numerous friends and associates who had the good fortune to share some corner of his productive life. This prestigious body shares in the phenomenal loss of an individual devoted to a life of serving others. This prestigious body does hereby adjourn this 29th day of March, 1994 in memory of the virtuous man who obtained satisfaction from serving humanity.

Representative Bondurant moved the adoption of the following **Legislative Citation No. 141**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Kelleigh Colliver Legislative Intern. The entire membership would like to join with Representative Kaye Bondurant in commending you on your professional manner, keen sense of humor during some brief but trying times and for doing an impressive job while serving as her Legislative Intern during the 1994 Legislative Session.

Representative Ackerson moved the adoption of the following **Legislative Citation No. 153**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Mark Little, Legislative Aide. The entire membership would like to join with Representative Jon Ackerson in commending you on your professional manner, dedicated service, proficient skills and doing a superb job while serving as his Legislative Aide during the 1994 Legislative Session.

Representative Hancock moved the adoption of the following **Legislative Citation No. 52**. Agreed.

The House of Representatives of the Commonwealth of Kentucky pays tribute to George C. Wolfe, Playwright and Director. The entire membership joins Representative C. M. "Hank" Hancock in commending you on your original stage playwriting, directing talent and in-depth view in regard to a colorful race of people. Your sense of writing style marks the history pages as a one of a kind. This eminent body applauds George C. Wolfe, intellectual, playwright and director for his sensitivity and creativity and proudly recognizes this native Kentuckian as an accomplished artist.

The following member filed a request to have his name added as a co-sponsor to a Bill under the rules previously suspended: **HB 408**, Representative Sanders.

Representative Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Adams moved that he be recorded as voting "nay" on Floor Amendment No. 1 to **SB 136**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 185**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 158**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bowling moved that he be recorded as voting "yea" on **HB 622, HB 664** and **HB 681**. Agreed.

Representative Shacklette moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Shacklette moved that her vote be changed from "nay" to "yea" on **SB 195**. Agreed.

Representative Farrow moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Farrow moved that he be recorded as voting "nay" on **HB 569** and **HB 562** and "yea" on concurrence of **HB 203, HB 511, HB 256, HB 358, HB 484, HB 385, HB 684, HB 32, HB 200** and **HB 260**. Agreed.

Representative Stumbo moved that no further business be conducted on this day other than to receive Senate Messages. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House does adjourn this day, it does so until 10:00 a.m., Wednesday, March 30, 1994. Agreed.

Recess

Representative Stumbo moved that the House recess. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message (Continued)

SB 247 returned with the following message: The Senate has concurred in House Floor Amendment No. 2 to **SB 247**, but refused to concur in House Committee Amendment No. 1 and House Floor Amendment No. 1 and respectfully returns it with the request that this Honorable Body recede from the House Committee Amendment No. 1 and the House Floor Amendment No. 1.

HB 282 returned with the following message: The Senate has refused to recede from Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 to **HB 282** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Rand, Nelson and Borders.

HB 455 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 455**: Senators Rose, Moloney, Baker, Berger, Kelly and Karem. (Time: 6:35 p.m.)

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Wednesday, March 30, 1994.

The motion to adjourn was adopted by voice vote.

WEDNESDAY, MARCH 30, 1994

FIFTH-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Dr. Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 29, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Long moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Long moved the adoption of the following **Legislative Citation No. 149**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative's C. M. "Hank Hancock, Jim LeMaster and Ken Harper for unprecedented and meritorious service to the members of the House of Representatives and the people of the Commonwealth of Kentucky. Whereas, these esteemed gentlemen spent prolonged, grueling hours as the virtuous statesmen, and members of the House Appropriations and Revenue Committee, conscientiously designing the sometimes precarious future of the general fund budget; and whereas, a combination of financial astuteness and political wisdom are necessary ingredients of which said recipients' have in abundance, to sagaciously and prudently make those arduous financial decisions that protect our worthy citizenry, this prestigious body does reluctantly bid farewell to these distinguished gentlemen who in retirement from said body leaves a sterling record, respected by all.

Representative Callahan moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 161**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends and honors Representative Ken Harper in recognition of his retirement from the Kentucky General Assembly. The distinguished Gentleman from Kenton 63's outstanding public service record will reflect his dedication, perseverance and fairness. His district and the Commonwealth have been fortunate to have the benefit of his thoughtful wisdom and experience. Representative Ken Harper will be remembered by all who have served with him as a respected colleague, valued friend and dedicated public servant. The entire membership extends its very best wishes on this memorable occasion and expresses the hope for continued good fortune.

Representative Callahan moved that the rules be suspended to act upon Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 162**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Bill Straub in recognition of his new assignment as the Washington D.C. Correspondent for the Kentucky Post. While completing his "tour of duty" as the state capital correspondent for the Kentucky Post, Bill Straub has distinguished himself by reporting accurately and fairly. The entire membership extends its very best wishes on this memorable occasion and expresses the hope for continued good fortune as you leave for your assignment in our nation's capital.

Representative Jensen moved that the rules be suspended to speak on **Legislative Citation No. 159**. Agreed.

Representative Jensen moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Jensen moved the adoption of the following **Legislative Citation No. 159**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Stephen Keith for exceptional and fundamental service to the members of the House of Representatives and the people of this great Commonwealth of Kentucky. This eminent body does reluctantly bid farewell to the distinguished Representative Stephen Keith who in retirement from said body leaves a flawless record, respected by all.

Representative Noland moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Noland moved the adoption of the following **Legislative Citation No. 158**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Jo Elizabeth Bryant for exceptional and fundamental service to the members of the House of Representatives and the people of this great

Commonwealth of Kentucky. This eminent body does reluctantly bid farewell to the gracious Representative Jo Elizabeth Bryant who in retirement from said body leaves a sterling record, respected by all.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 88, SB 112, SB 150, SB 151, SB 153, SB 180, SB 184, SB 185, SB 188, SB 205, SB 234, SB 268** and **SB 307** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:38 a.m.)

Floor Amendment

Floor Title Amendment No. 3 to **SB 72**, by Representative Barrows:

By deleting "reorganization" and inserting in lieu thereof "state government".

Floor Amendment No. 6 to **SB 72**, by Representative Barrows:

On page 1, by inserting the following between lines 3 and 4:

"Section 2. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter

13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class***.***[~~;~~

~~1.~~]The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

[~~2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;~~]

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities [~~and the secretary of the Finance and Administration Cabinet~~]. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid ***not less than the minimum rate of the pay grade assigned***[~~at one (1) of the rates set forth in the pay plan~~] for the class of position in which he is employed[~~, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages~~];

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, ***an eligible's score shall expire automatically one (1) year from the date of testing***[~~eligibility lists shall expire automatically at the end of two (2) years~~], unless the life of ***the score***[~~a list~~] is extended by action of the commissioner for a period not to exceed one (1) additional year***. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established***;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, ~~[and]~~ employee relations*, and employee mobility*; and

(l) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement."; and

On page 1, line 4, by changing "Section 2" to "Section 3".

Representative Callahan moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 164**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors William I. "Bill" Donnermeyer. The most distinguished gentleman from Campbell has dedicated a quarter century to providing leadership, compassion and innovation for the citizens of Kentucky. His commitment to progress is mirrored in the General Assembly's first code of ethics. His political acumen is reflected in this decade-long tenure as the Majority Caucus Chairman. His compassion is seen in his travails for those who labor. This most distinguished gentleman from Campbell will long be remembered by those elected to this chamber as we advance the cause of a safer workplace. His sense of the sanctity of life will long be a moral guide for those who inherit his mantle of public service. The most distinguished gentleman from Campbell shall depart this General assembly both as a friend and a mentor, as a leader and a companion, as an inspiration and a conscience.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 32, HB 58, HB 200, HB 205, HB 256, HB 322, HB 358, HB 399, HB 417, HB 484, HB 562, HB 569, HB 613, HB 622, HB 664, HB 681, HB 684, HB 830** and **HB 647** have been examined and found correctly enrolled . Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:09 a.m.)

HB 32, HB 58, HB 200, HB 205, HB 256, HB 322, HB 358, HB 399, HB 417, HB 484, HB 562, HB 569, HB 613, HB 622, HB 664, HB 681, HB 684, HB 830 and **HB 647** delivered to the Senate and signed by the President. Delivered to the Governor on March 30, 1990 at 12 Noon.

Representative Adkins moved the adoption of the following **Legislative Citation No. 166**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Rex Smith for exceptional and fundamental service to the members of the House of Representatives and the people of this great Commonwealth of Kentucky. This eminent body does reluctantly bid farewell to the distinguished Representative Rex Smith who in retirement from said body leaves a impeccable record, respected by all.

A Conference Committee Report was filed on **HB 455**.

Representative Long moved that the House refuse to concur in the Senate Committee Substitute to **HB 301**. Agreed.

The Senate Committee Substitute to **HB 301** is as follows:

HB 301, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts or federal funds accounts for the fiscal year beginning July 1, 1994, and ending June 30, 1995, and for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facility fund and for services performed by the Circuit Clerks' offices, including both circuit and district court support:

1. Court of Justice

a. To the Court of Justice, for court operation and administration

	1993-94	1994-95	1995-96
General Fund	25,000	91,459,600	95,904,400
Restricted Funds		143,300	143,300

Federal Funds		17,300	100
Total	25,000	91,620,200	96,047,800

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1994-95 and in fiscal year 1995-96 for non-elected court personnel. Notwithstanding the provisions of KRS 64.485 and 64.486 to the contrary, included are funds to provide for a seven percent (7%) salary adjustment for justices and judges in fiscal year 1994-95 and a seven percent (7%) salary adjustment for the justices and judges in fiscal year 1995-96. Also included are funds for the salaries of the circuit clerks in fiscal year 1994-95 and fiscal year 1995-96 as provided for in the judicial branch budget recommendation.

b. To the Court of Justice, for the local facilities fund to compensate local units of government for providing court space pursuant to KRS Chapter 26A; to provide for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and included in the Capital Improvements Plan as provided in KRS Chapter 7A; and to perform all other acts required or authorized by KRS Chapter 26A.

	1994-95	1995-96
General Fund	14,029,300	15,384,200

Total Court of Justice

	1993-94	1994-95	1995-96
General Fund	25,000	105,488,900	111,288,600
Restricted Funds		143,300	143,300
Federal Funds		17,300	100
Total	25,000	105,649,500	111,432,000

2. Judicial Form Retirement System

a. To the board of trustees of the Judicial Form Retirement System, for funding and operation of the judicial retirement plan

	1994-95	1995-96
General Fund	4,572,100	4,578,500

Funds are included to provide for the 1993 actuarial assessed needs and a five percent (5%) cost-of-living adjustment effective July 1, 1994, in retirement benefits based on service that terminated prior to July 1, 1994; and a five percent (5%) adjustment effective July 1, 1995 in retirement benefits based on service that terminated prior to July 1, 1995.

Included in the above appropriation is $778,500 in each fiscal year contingent upon passage of enabling legislation. Funding support for each respective plan in the Judicial Form Retirement System shall be allotted as required pursuant to the enabling legislation.

Total Judicial Operating Budget

	1993-94	1994-95	1995-96
General Fund	25,000	110,061,000	115,867,100
Restricted Funds		143,300	143,300
Federal Funds		17,300	100
Total	25,000	110,221,600	116,010,500

Any unexpended balance remaining in the Court of Justice's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 1994 and June 30, 1995 shall not lapse.

In the event the Court of Justice receives receipts in excess of the amounts appropriated herein, the director of the Administrative Office of the Courts at the direction of the Chief Justice may authorize the credit and expenditure of such restricted funds or federal funds receipts for statutory purposes. The director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

PART II

CAPITAL PROJECTS BUDGET

Funds are appropriated in the capital budget for implementation of the statewide automated court case management and offender-based transaction system. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice operating budget as necessary to implement this system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly to appropriate amounts for specific purposes for equipment items which are not individually identified herein related to the implementation of the statewide automated court case management and offender-based transaction system. Any such individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

State-wide Automated Court Case Management and Offender-based Transaction System

	1994-95	1995-96
General Fund	1,022,600	865,300
Federal Funds	82,700	
Total	1,105,300	865,300

TOTAL JUDICIAL

OPERATING BUDGET/CAPITAL PROJECTS BUDGET

	1993-94	1994-95	1995-96
General Fund	25,000	111,083,600	116,732,400
Restricted Funds		143,300	143,300
Federal Funds		100,000	100
TOTAL - JUDICIAL	25,000	111,326,900	116,875,800

PART III

GENERAL PROVISIONS

1. The director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose which the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. In enacting this appropriations Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and specific appropriation and law, and if any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Court of Justice shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other records pertaining thereto.

4. The Chief Justice shall cause the director of the Administrative Office of the Courts to prepare a final budget document reflecting the 1994-96 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1994 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Representative Long moved that the House refuse to concur in the Senate Committee Substitute No. 2 and Senate Floor Amendments to the Senate Committee Substitute to **HB 250**. Agreed.

The Senate Committee Substitute No. 2 to **HB 250** is as follows:

HB 250, AN ACT relating to health care reform and providing funding therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART 1

KENTUCKY HEALTH POLICY BOARD

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15, 38, and 39 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky Health Policy Board created pursuant to Section 2 of this Act.

(2) "Facility" means any hospital or other health care facility, whether operated for profit or not, required to be licensed pursuant to KRS Chapter 216B.

(3) "Health care provider" or "provider" means any facility and service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

- *(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;*
- *(b) Chiropractors licensed pursuant to KRS Chapter 312;*

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the board by administrative regulation promulgated pursuant to KRS Chapter 13A.

(4) "Hospital services" means:

(a) Inpatient hospital services as enumerated in medicare regulation 42 C.F.R. Sec. 409.10, as it may be amended from time to time;

(b) Emergency services;

(c) Outpatient services provided by the hospital; and

(d) Physician and other services provided in a hospital on an inpatient or outpatient basis.

(5) "Integrated delivery network" has the same meaning as a "network" defined in KRS 216.900(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board is hereby created as an independent agency of state government. The goal of the board shall be to control health care costs, improve quality and efficiency, encourage competition, and develop a system of integrated health care delivery which makes necessary health services available to all residents of the Commonwealth. The board shall be attached for administrative purposes to the Cabinet for Human Resources.

(2) The board shall consist of five (5) members appointed by the Governor no later than August 1, 1994, and confirmed by the Kentucky Senate. The members shall be full-time state employees and a chairman shall be appointed by the Governor from among the membership. Three (3) members shall be persons who do not hold, and have not held, any full-time employment with a facility and who are not, and have not been licensed providers. Each of the remaining two (2) members shall either have at least five (5) years experience in the management or operation of a facility or have been a licensed provider for at least five (5) years. Each member shall have a demonstrated interest in the provision of efficient, economical, and quality health care. Compensation for members of the board shall be exempt from the provisions of KRS 64.640. The members shall comply with the provisions of KRS Chapter 11A and any code of ethics for executive branch employees. The Governor may at any time remove any member for cause after furnishing the member with a written copy of the charges against the member and affording the member a public hearing if requested. No member of the board shall accept employment or compensation from any facility or provider, or become a practicing provider within the Commonwealth of Kentucky for two (2) years, following the end of the member's term.

(3) The terms of members of the board shall be four (4) years except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 1995;

(b) One (1) on June 30, 1997; and

(c) Two (2) on June 30, 1998.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall appoint an executive director to be the chief administrative officer of the board. The executive director shall serve at the pleasure of the board. Under the direction of the board, the executive director shall perform any duty or function that the board requires.

(7) The executive director may employ staff necessary for the performance of the duties of the board. The board's staff shall not be subject to the classified service provided for by KRS 18A.005 to 18A.200.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The board may:

(a) Annually set a target expenditure limit for total state health expenditures with a goal that the rate of increase decline by ten percent (10%) per year until the rate of increase in total state health expenditures is equal to the rate of increase in state personal income.

(b) Promulgate any administrative regulations pursuant to KRS Chapter 13A necessary to carry out its statutory responsibilities;

(c) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations to carry out its statutory responsibilities;

(d) Apply for and accept any funds, property, or services from any person or government agency to carry out its statutory responsibilities;

(e) By administrative regulation, promulgated pursuant to KRS Chapter 13A, comply with any federal requirement that may be imposed or opportunity that may be presented with regard to any matter under the jurisdiction of the board;

(f) Make agreements with a grantor of funds, or property, or services, including an agreement to make any study, plan, demonstration, or project to carry out its statutory responsibilities;

(g) Develop and implement pilot programs relating to health care costs, quality, or access as it deems appropriate;

(h) Publish and make available information that relates to the health care financing and delivery system that is in the public interest;

(i) Sue and be sued;

(j) Contract with a qualified, independent third party for any service necessary to carry out the powers and duties of the board; however, unless permission is granted specifically by the board, a third party hired by the board shall not release, publish, or otherwise use any information to which the third party has access under its contract;

(k) Establish purchasing cooperatives through which licensed providers may purchase medical supplies, medical equipment, services, or pharmaceuticals at discount prices for the purpose of lowering health care costs to patients.

(l) Financially audit the books and records of the Kentucky Health Purchasing Alliance created under Section 67 of this Act;

(m) Recommend the initiation of disciplinary proceedings for health care providers before the State Board of Medical Licensure created pursuant to KRS Chapter 311, the State Board of Podiatry created pursuant to KRS Chapter 311, the State Board of Chiropractic Examiners created pursuant to KRS Chapter 312, the Kentucky Board of Dentistry created pursuant to KRS Chapter 313, the Kentucky Board of Nursing created pursuant to KRS Chapter 314, the Kentucky Board of Pharmacy created pursuant to KRS Chapter 315, the Kentucky Occupational Therapy Board created pursuant to KRS Chapter 319A, the Kentucky Board of Optometric Examiners created pursuant to KRS Chapter 320, the State Board of Physical Therapy created pursuant to KRS Chapter 327, and the Kentucky Licensure Board for Specialists in Hearing Aid Instruments created pursuant to KRS Chapter 334, for any violations of any provisions of KRS Chapter 164, 205, 216, 216B, 304, or 314; and

(2) The board shall:

(a) Analyze specific health service costs and benefits, and define and develop a priority listing of minimum health benefits on the basis of the relationships between costs, benefits, and improved quality of life for citizens of the Commonwealth of Kentucky. The board shall use the minimum list of health care benefits to recommend to the 1996 Regular Session of the General Assembly a plan for the implementation and funding of a universal access plan for all Kentuckians;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;

2. Health care quality or outcome;

3. Health providers and health services; or

4. Epidemiologic studies.

(c) Prescribe standardized uniform health claim forms and one (1) standardized uniform dental health claim form, which shall be used when processing any health insurance claim and workers' compensation health claim made in this state. Any uniform health insurance claim forms prescribed by the Health Policy Board shall conform to nationally-approved claim forms required for payment under Title 18 of the Social Security Act.

1. No health insurer or employer or carrier processing workers' compensation claims shall require submission of any information, attachments, certifications, or similar additions for receipt of payment which exceed that which is contained on the uniform health insurance claim forms prescribed by the Health Policy Board.

2. For purposes of this paragraph, "health insurance" and "health insurer" mean health care coverage provided by any insurance company; health maintenance organization; self-insurer; or multiple employer welfare arrangement or other benefit arrangement, to the extent permitted by ERISA; nonprofit hospital, medical-surgical, dental, and health service corporation authorized to transact health insurance business in Kentucky; and the Department for Medicaid Services.

3. The board shall promulgate an administrative regulation, pursuant to KRS Chapter 13A, to carry out the provisions of this paragraph.

4. Any person who knowingly violates this paragraph by failing to use or accept the standardized uniform health claim form or one (1) standardized uniform dental health claim form shall be subject to forfeiture of its license to do business in this Commonwealth and a civil fine not to exceed one thousand dollars ($1,000) for each violation;

(d) Collect, analyze, and disseminate county specific data from health care providers on maximum fees charged for health care procedures as described under Sections 11 to 15 of this Act;

(e) Develop, update, and recommend implementation of parameters for clinical practice for use by health care providers as described under Section 17 of this Act;

(f) Compile and publish a list from information supplied by each health care provider of equipment, health facilities, and health services in which the provider has five percent (5%) or more ownership or financial interest as described under Section 38 of this Act;

(g) Authorize pilot projects for twenty-four (24) hour health coverage as set forth under Section 39 of this Act;

(h) Approve or disapprove certificate-of-need applications under KRS Chapter 216B;

(i) Establish a mechanism for biennial review of projects for compliance with the terms of the granted certificate of need as set forth under Section 46 of this Act;

(j) Certify and may decertify the health purchasing alliance created pursuant to Section 70 of this Act;

(k) Annually review the performance of the health purchasing alliance;

(l) Supervise the health purchasing alliance to protect against violation of antitrust laws as provided under Section 71 of this Act;

(m) Define standard benefit plans, as provided under Section 68 of this Act, on which requests for proposals are submitted to the health purchasing alliance by the accountable health plans;

(n) Inform Kentucky residents of the existence and provisions of the five (5) standard benefits plans available, as provided under Section 80 of this Act;

(o) Develop and approve a risk assessment and adjustment methodology for use by the health purchasing alliance under Section 68 of this Act;

(p) Approve supplemental benefit plans as provided under Sections 68 and 80 of this Act;

(q) Develop an underserved area physician respite program as provided under Section 94 of this Act;

(r) Within ninety (90) days after the end of each facility's fiscal year or more often as the board determines, prepare from the information filed with the board any summary, compilation, or other supplementary report required by the board;

(s) Set deadlines for the filing of statutorily required reports and make each required report filed and each summary, compilation, or supplementary report, except for privileged medical information, available for public inspection at the office of the board during regular business hours and each summary and compilation available to any agency or person on request and upon payment to the board of a reasonable fee for distribution of an electronic or printed copy of the information;

(t) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to meetings, minutes which shall be kept of each meeting, and transactions of the board;

(u) Prepare annually a budget proposal that includes the estimated income of the board and proposed expenses for its administration and operation;

(v) On or before October 1 of each year, submit to the Governor, Legislative Research Commission, and Interim Joint Committees on Appropriations and Revenue and Health and Welfare an annual report on the operations and activities of the board during the preceding fiscal year, including:

1. A copy of each summary, compilation, and supplementary report deemed relevant by the board; and

2. Any other fact, suggestion, or policy recommendation that the board considers necessary;

(w) Promote the development of integrated delivery networks in rural areas;

(x) By July 1 of each year, compile a list of the twenty-five (25) health care services, procedures, or tests most

often performed statewide by physicians, osteopaths, and podiatrists licensed under KRS Chapter 311, dentists licensed under KRS Chapter 313, optometrists licensed under KRS Chapter 320, psychologists licensed under KRS Chapter 319, chiropractors licensed under KRS Chapter 312, hospitals and other health facilities licensed under KRS Chapter 216B, and all drug and alcohol treatment centers licensed under KRS Chapter 222;

(y) By July 1 of each year, compile a list of the fifty (50) prescription drugs, by name, dosage, and quantities, most often dispensed statewide by pharmacies granted permits under KRS Chapter 315; and

(z) Within sixty (60) days of the compilation of the lists compiled pursuant to paragraphs (x) and (y) of this subsection, provide a copy of the appropriate list to each provider within the classes identified in paragraphs (x) and (y) of this subsection.

(3) The board may promulgate administrative regulations that impose civil fines not to exceed one thousand dollars ($1,000) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the costs of a facility in regulating its rates.

(4) The board shall design programs to address the special health needs of the minority population. The board shall annually, beginning in 1995, prepare a Minority Health Services Strategic Plan identifying the special needs of the minority population in the Commonwealth as compared to the population at large. The plan shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The plan shall, at a minimum:

(a) Contain an overview of the health status of minority Kentuckians;

(b) Identify specific diseases and health conditions for which the minority are at greater risk than the general population;

(c) Identify problems experienced by the minority in obtaining health services from government agencies;

(d) Identify programs at the state and local level designed to specifically meet the health needs of the minority;

(e) Establish funding priorities as to the health services most needed by minority Kentuckians;

(f) Include a status report documenting the extent to which the needs of the minority as identified in the plan are being met; and

(g) Establish a process which provides for public input in the development of the Minority Health Services Strategic Plan.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The power of the secretary for human resources over plans, proposals, and projects of units in the cabinet does not include the power to disapprove or modify any decision or determination that the board makes under powers specifically delegated by law to the board.

(2) The power of the secretary for human resources to transfer by administrative regulation, administrative order, or written directive, any staff, functions, or funds of units in the cabinet does not apply to any staff, function, or funds of the board.

PART 2

HEALTH DATA COLLECTION

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 5 to 15 of this Act, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization.

(2) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory facility-based physicians shall be excluded from the calculation of charge.

(3) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility.

(4) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic, procedures performed by a provider, as periodically determined by the Kentucky Health Policy Board in administrative regulations promulgated pursuant to KRS Chapter 13A as those for which reports to the Kentucky Health Policy Board shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those

which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as periodically determined by the Kentucky Health Policy Board.

(5) "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes.

(6) "Risk-adjusted" means mathematically modified to remove the effects of differences among providers in their patients' severity of illness or other factors that are not the result of the providers' treatment of the patients, but that are likely to affect the charges or quality of care.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board shall collect, analyze, and disseminate information on the cost, quality, and outcomes of health services provided by health facilities and health care providers in the Commonwealth.

(2) The executive director of the Kentucky Health Policy Board shall serve as chief administrative officer for the health data collection functions of Sections 5 to 10 of this Act.

(3) No member of the Kentucky Health Policy Board or employee thereof shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of under Sections 5 to 10 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of Sections 5 to 10 of this Act, the Kentucky Health Policy Board may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under Sections 5 to 10 of this Act; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of Sections 5 to 10 of this Act; however, unless permission is granted specifically by the Kentucky Health Policy Board, a third party hired by the Kentucky Health Policy Board shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of Sections 5 to 10 of this Act, the Kentucky Health Policy Board shall:

(a) Publish and make available information that relates to the health care financing and delivery system that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;

2. Health care quality and outcomes; and

3. Health care providers and health services;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to Sections 5 to 10 of this Act; and

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of Sections 5 to 10 of this Act.

(3) The Kentucky Health Policy Board may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for medicare or medicaid reimbursement.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the Kentucky Health Policy Board by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms which shall include the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the Kentucky Health Policy Board. Thereafter, every hospital and ambulatory facility shall be required to report, on a periodic basis, information regarding the charge for and quality of the procedures and health care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The board shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the board. The Kentucky Health Policy Board may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the

submission of information by all hospitals, ambulatory facilities, or providers.

(2) The Kentucky Health Policy Board shall require for submission to the board by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in Section 1 of this Act and any further categories determined by the board, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the board for that year, and as provided by board promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which charge and quality data shall be collected and published at specified time intervals and in a specified manner;

(b) A timetable for filing data;

(c) A list of data elements that are necessary to enable the board to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;

(d) An acceptable format for data submission which shall include use of the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the Kentucky Health Policy Board, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or in the form of hard copy;

(e) Procedures to allow health care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the board to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The board shall coordinate its data-gathering activities with other data-collection activities conducted by the Cabinet for Human Resources and the Department of Insurance, as well as other state agencies which collect health-related service, utilization, financial, and health care personnel data, to prevent duplicate filing requirements.

(4) The board shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health care charges and quality.

(5) The board may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the board and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The board may initiate activities set forth in subsection (1) or (2) of this section at any time after the effective date of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the Kentucky Health Policy Board or its staff and shall not be subject to inspection under KRS 61.870 to 61.884;

(a) Any data, summary of data, correspondence, or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence; and

(b) Any correspondence or related notes from or to any employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence.

(2) Health care providers submitting required data to the board shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the board complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.

(3) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the board shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public. The aggregate data shall be made available in both printed format and in a standard electronic format which is readable by commonly available software for personal computers. Single copies of the printed data shall be made available to individuals at no cost. The board may impose a fee no greater than that necessary to cover its costs for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without charge to the Legislative Research Commission.

(4) Collection of data about individual patients shall be in a nonidentifying numeric form and shall not include a patient's name or Social Security number. Any person who receives information identifying a patient through error

or any other means shall return all copies of the information immediately.

(5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.

(6) Only designated board staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.

(7) Any employee of the board or member of the board who violates any provision of this section shall be fined not more than five hundred dollars ($500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed and disqualified from office or employment.

SECTION 10. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board shall annually, on or before July 1, prepare and publish, in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons, a report or reports on health care charges, quality, and outcomes which includes diagnosis-specific or procedure-specific comparisons for each hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.

(2) The board shall annually, on or before October 1, submit to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor a report on the operations and activities of the board under Sections 5 to 10 of this Act during the preceding fiscal year, including a copy of each study or report required or authorized under Sections 5 to 10 of this Act and any recommendations relating thereto.

(3) The board shall report at least biennially, no later than October 1 of each odd-numbered year, to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor on matters pertaining to comparative health care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health care costs, including the implementation of Sections 11 to 15 of this Act, and any recommendations regarding its data collection and dissemination activities.

(4) The board shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

PART 3

FEE DISCLOSURE FOR PROVIDERS

SECTION 11. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that one of the factors affecting the increasing cost of health care services is a lack of consumer knowledge of health care costs prior to obtaining treatment. Therefore, it is the purpose of Sections 11 to 15 of this Act to promote health care cost awareness among health care consumers and providers, to encourage competitive health care pricing, and to improve the quality of health care in the Commonwealth through the public disclosure of fees charged by licensed health care providers as set forth under Section 13 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Section 13 of this Act, "health care recipient" means any individual who receives, or should have received, health care from a health care provider.

SECTION 13. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) All physicians, osteopaths, and podiatrists licensed under KRS Chapter 311, all dentists licensed under KRS Chapter 313, all optometrists licensed under KRS Chapter 320, all psychologists licensed under KRS Chapter 319, and all chiropractors licensed under KRS Chapter 312 shall post in a conspicuous place readily available to all patients a quotation of the maximum fee charged for each of the twenty-five (25) services, procedures, or tests identified by the Health Care Policy Board pursuant to paragraph (x) of subsection (2) of Section 3 of this Act. Physicians providing service at dispensaries, first aid stations, and clinics located within business or industrial establishments maintained solely for the use of their employees are excluded from the provisions of this section.

(2) All retail pharmacies granted permits under KRS Chapter 315 shall post in a conspicuous place readily available to all individuals filling a prescription a quotation of the maximum retail selling price for each of the fifty (50) prescription drugs identified by the Health Care Policy Board pursuant to paragraph (y) of subsection (2) of Section 3 of this Act.

(3) All hospitals and other health facilities licensed under KRS Chapter 216B and all drug and alcohol treatment centers licensed under KRS Chapter 222 shall post in a conspicuous place readily available to patients:

(a) A statement of the maximum daily charge for room and board, inclusive of all nursing services, by level of care; and

(b) A quotation of the maximum fee charged health care recipients for each of the twenty-five (25) services, procedures, or tests as prescribed by the board pursuant to paragraph (x) of subsection (2) of Section 3 of this Act.

(4) All other health care providers not subject to subsections (1) to (3) of this section shall post in a conspicuous place readily available to all patients a statement of the maximum fee charged health care recipients for the ten (10) services, procedures, or tests most often performed by the provider. Physicians providing service at dispensaries, first aid stations, and clinics located within business or industrial establishments maintained solely for the use of their employees are excluded from the provisions of this section.

(5) Notwithstanding any other contrary provisions of law, no health care provider shall charge for or receive payment or reimbursement in any amount which is in excess of the maximum amount quoted to a health care recipient for a health care service, procedure, or test pursuant to Sections 11 to 15 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board pursuant to subsection (2) of Section 3 of this Act may require any providers to submit to the board a listing of the charges or fees for the services, procedures, or tests identified in Section 13 of this Act. Physicians providing service at dispensaries, first aid stations, and clinics located within business or industrial establishments maintained solely for the use of their employees are excluded from the provisions of this section.

(2) The board shall collect, analyze, and disseminate the data and shall develop specific reports that are to be made available in pamphlet form that are reasonably understandable and will allow for valid comparisons.

(3) The board may promulgate administrative regulations under KRS Chapter 13A to implement this section, including provisions for the standardization of the form on which health care providers shall submit charge or fee data and the content and form of other related data.

SECTION 15. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Any health care provider who willfully violates any of the provisions of Sections 11 to 15 of this Act shall be fined no less than one hundred dollars ($100) per day for failure to post or distribute the required list of fees charged and one thousand dollars ($1,000) per month for failure to submit the required data to the board.

SECTION 16. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Every person receiving medical treatment in the Commonwealth of Kentucky shall have the right, upon request, to receive a written statement as to a provider's charge for services to be rendered prior to the service being performed. Providers shall, upon request, deliver the fees to be charged to the person in writing.

(2) Every person covered under a contract issued by an insurer, health maintenance organization, or accountable health plan delivered or issued for delivery in the Commonwealth shall have the right, upon request, to receive information about the reimbursement amount to be paid to a provider by the insurer under the health maintenance organization or accountable health plan prior to receiving services from the provider. Each insurer, health maintenance organization, or accountable health plan shall, upon request, disclose the reimbursement to be paid to the provider under the terms of the contract for the service specified.

PART 4

QUALITY IMPROVEMENT

SECTION 17. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of improving and assessing the quality of clinical care, the Kentucky Health Policy Board, created by Section 2 of this Act, through the various professional licensure boards and any volunteer advisory committees deemed necessary by the board, shall develop, update, and recommend implementation of parameters for clinical practice for use by health care providers as defined in Section 1 of this Act. The board may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research. The board shall adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the board, with periodic updating based on data collected during the application of the parameters. Outcome measures shall be developed by the board in conjunction with the provider community. After these measures have been established they shall be disseminated to the various professional licensure boards.

(2) Any health care provider who has followed the practice guidelines approved by the board in the treatment of a patient shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

PART 5

PROVIDER ARBITRATION AND MEDIATION

SECTION 18. KRS CHAPTER 417A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The following provisions shall apply to actions prior to filing a lawsuit against a health care provider alleging personal injury or wrongful death:

(1) Any person, or the personal representative of a deceased person, aggrieved by reason of any action or inaction of a health care provider may, in person or by counsel, file with the clerk of the Circuit Court a preliminary complaint which alleges the names and addresses of the health care provider or providers by whom the party claims to have been injured and sets forth sufficient facts to establish where, when, and how the patient was injured, and requests mediation prior to submission of a formal complaint. Upon filing the preliminary complaint the clerk of the court shall notify the health care provider or providers of the allegation and request to mediate. Upon receipt of written agreement by the health care provider or providers, a mediation process shall be initiated.

(2) The filing of the preliminary complaint shall initiate the mediation process pursuant to Section 19 of this Act, and shall toll the statute of limitations so long as the preliminary complaint is filed within the period allowed for filing a complaint against a health care provider.

(3) The notification issued against the health care provider or providers shall state that the subject matter of the preliminary complaint shall be submitted to mediation; shall identify the mediator; and shall state the time and place of the mediation which shall be scheduled no sooner than thirty (30) days following the filing of the preliminary complaint nor later than sixty (60) days from the filing of the preliminary complaint.

(4) The health care provider or providers may file a responsive pleading to a preliminary complaint within a time allowed by the court.

(5) If the aggrieved party is not represented by counsel, then the health care provider or providers shall be encouraged to respond to mediation without counsel, but may engage counsel at the health care provider's option.

(6) If the mediation does not result in a resolution of the dispute, the aggrieved party has ninety (90) days after the mediator files a report with the court in which to file a complaint for lawsuit, within the Kentucky Rules of Civil Procedure, and to issue summons to be served upon the health care provider or providers for that purpose.

(7) If the mediation does not result in the resolution of the dispute and the aggrieved party files a complaint under the Rules of Civil Procedure, then the mediation process required under Section 18 shall be waived.

SECTION 19. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

The following provisions shall apply to any action filed in Circuit Court by a patient or patient's representative against a health care provider alleging personal injury or wrongful death:

(1) Upon filing of a complaint in a personal injury action alleging negligence of a health care provider, the plaintiff's attorney shall file an affidavit stating as follows:

(a) That the plaintiff's attorney has gathered all pertinent medical records and has had those records reviewed by an actively practicing physician of the same specialty or subspecialty as the plaintiff and who is qualified to render opinions on the appropriate standard of care under the same or similar circumstances, and that person, after reviewing the records, has given the opinion, predicated upon reasonable medical probability, that there was a departure from the standard of care and that the departure was a substantial factor in causing the injury or death; or

(b) That, because of significant time constraints posed by the applicable statute of limitations, the plaintiff's attorney has not had time to do the acts required in paragraph (a) of this subsection, in which case the plaintiff's attorney shall within ninety (90) days of the date of the filing of the complaint file the required affidavit, with the time for the health care provider and any other defendants to file a responsive pleading not to commence until after the affidavit is filed.

(2) The complaint shall be dismissed at the cost of the plaintiff and any other sanctions as the trial court deems appropriate may be assessed against the plaintiff and plaintiff's attorney for failure to comply with the provisions of paragraph (a) or (b) of subsection (1) of this section.

(3) In all actions covered by this section the case shall be referred to mediation as follows:

(a) After the expiration of ninety (90) days from the date of service of summons upon the health care provider, or at an earlier time as the health care provider may agree, the trial court shall order the parties to mediation which mediation shall be held no later than one hundred and eighty (180) days from the date of service of summons upon the health care provider or at an earlier date as the parties may agree;

(b) The parties may serve interrogatories, requests for documents, requests for admissions, and obtain medical records by agreement or subpoena prior to mediation without leave of court, but any depositions to be taken

shall be taken only with leave of court upon a showing of good cause, or by agreement of the parties;

(c) The parties shall attend a mediation conference on a date and at a time certain with the following persons required to be present:

1. The parties in the case of individuals, or the duly-appointed personal representative of an estate, or in the case of a corporate entity, a duly-authorized representative with authority to settle;

2. Each party's counsel of record, if any;

3. A representative of each party's insurer who is not the counsel for the health care provider and who has authority to settle at any amount up to the total liability covered provided without further consultation; and

4. Other persons as the trial court may order, or the parties may agree, including but not limited to factual and expert witnesses.

(d) The mediation conference shall be at a time and place set by order of the court in which the action is pending and shall be conducted by a mediator appointed by the court to consider the possibility of settlement, the simplification of issues, and any other matters which the mediator and the parties determine may aid in the handling of the disposition of the proceedings. The mediator may schedule additional conferences necessary to complete the process and mediation shall continue until the parties have reached a settlement, until they are unwilling to proceed further, or until the mediator determines that further efforts would be futile. The mediator shall report to the court whether or not mediation was successful, or if further mediation might be considered after additional discovery, but the mediator shall not make findings of facts, nor shall the mediator assign blame to any party for the failure of the mediation process.

(e) If any party fails to appear at a duly-noticed and scheduled mediation conference without good cause, the trial court shall upon motion impose sanctions against the party or counsel, or both, which sanctions may include an award of attorney's fees and other reasonable costs and expenses.

1. At least ten (10) days prior to the mediation conference, each party shall submit to the mediator a written statement of the case. The statement shall be confidential and shall not be disclosed to the other party or parties without first obtaining permission of the party presenting the statement. Each statement shall contain the following information:

a. When and by whom the patient was treated and the nature of that treatment;

b. The alleged propriety or impropriety of the treatment and the nature and extent of the patient's injuries and damages; and

c. The amount, if any, that the parties would be willing to settle the matter at that stage of the proceeding.

2. Each party shall provide copies of the medical records believed by that party to be relevant, to the mediator and to all other parties.

3. Upon conclusion of the mediation conference the mediator shall return to the parties the written statements of the case, unless otherwise agreed by the parties.

(4) The procedure for mediation shall be as follows:

(a) All persons required by paragraph (c) of subsection (3) of this section shall be present with the mediator presiding;

(b) The plaintiff if an individual, the personal representative of the patient's estate, or the attorney representing the plaintiff may present the facts, and if the party states the facts, the attorney may elaborate upon them or make positional or conclusionary statements regarding the facts;

(c) The defendant, or, in the case of a corporate entity, the representative of that health care provider, or the attorney for the health care provider may make statements of facts as deemed necessary and the attorney for each health care provider may make additional statements or make positional or conclusionary statements regarding the facts; and

(d) The mediator shall discuss the facts with all parties and their attorneys to determine the areas of conflict and shall confer with them as the mediator deems proper in accordance with the mediator's training and experience, with the intent and purpose of reaching a compromise on all or as many of the issues as is possible.

(5) Except as otherwise provided for in this section, all mediation documents and mediation communications are privileged and confidential and shall not:

(a) Be disclosed;

(b) Be subject to disclosure through discovery or any other process;

(c) Be admissible into evidence in any judicial or administrative proceeding; or

(d) Be considered a public record.

(6) Any party may, during the mediation process, name an expert witness, but no party may depose that expert unless the party identifying the expert later advises that the expert will be called as a witness at the trial. The opposing party shall not later designate the expert as a witness, nor may the witness be examined concerning any report that may have been furnished during the mediation process, unless the party producing the witness intends to offer the report into evidence.

(7) There is no privilege and no restriction on release of information considered privileged or confidential under subsection (5) of this section if:

(a) All parties consent in writing;

(b) The mediation communication or mediation document gives the mediator knowledge of or a reasonable cause to suspect a child has been abused or neglected, but only to the extent and for the specific purpose the communication or document is required to be disclosed; or

(c) The mediation communications were made in furtherance of the commission of a crime or fraud or as part of a plan to commit a crime or fraud, but only to the extent and for the specific purpose the communication or document is required to be disclosed.

(8) Guidelines and procedures for medical negligence mediation under this section, including mediator qualifications and mediation training, shall be developed by the Supreme Court of Kentucky and issued as rules.

(9) The Supreme Court of Kentucky shall, by rule, set a fee schedule for mediation services under this section.

(10) The trial court shall, utilizing the fee schedule, set a reasonable fee for the mediator based upon the complexity of issues and the time required for mediation. This fee shall be assessed among the parties on a pro rata basis. The court in which the action is pending may, utilizing the fee schedule, upon motion, increase the mediator's fee due to the complexity of the case, or the time involved.

(11) The mediators shall successfully complete mediation training in a program approved by the Administrative Offices of the Courts.

(12) Nothing contained in this section shall be construed to limit or prohibit the trial court, upon the motion of all parties, from referring a pending case against a health care provider to mediation at any time prior to the entry of a final judgment and any subsequent referral to mediation after the initial mediation conference shall be in accordance with the provisions of this section.

(13) In any action brought against a health care provider under this section, the trial court may, after an evidentiary hearing, award attorney's fees and expenses if the court finds as fact that:

(a) The claim or defense is totally without merit; and

(b) The party against which the award is made persisted in the claim or defense after it was known that the claim or defense was without merit, after having been placed upon notice by the opposing party.

SECTION 20. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any of the provisions of this chapter to the contrary, the provisions of Section 21 of this Act shall be applicable to the arbitration of a dispute, controversy, or issue arising out of or resulting from injury to, or the death of, a person caused by an error, omission, or negligence in the performance of professional services by a health care provider in Kentucky.

SECTION 21. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) Any person who receives allegedly negligent health care from a health care provider shall have the option to execute an agreement to arbitrate a dispute, controversy, or issue arising out of the allegedly negligent health care or treatment, in lieu of civil action.

(2) Arbitration shall not commence without the voluntary agreement of the claimant and all defendants. The agreement to arbitrate shall not be valid if executed prior to receipt of medical services or treatment which are at issue in the arbitration.

(3) The form of the agreement shall be established by the Supreme Court and shall be accompanied by an information brochure developed by the Administrative Office of the Courts which clearly details the agreement provisions including, but not limited to, the limit on damages of five hundred thousand dollars ($500,000).

SECTION 22. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) In a proceeding pursuant to Sections 20 to 37 of this Act:

(a) The parties may be represented by counsel, be heard, present evidence material to the controversy, and cross-examine any witness;

(b) The prevailing standard of duty, practice, or care applicable in a civil action shall be the standard applied in

the arbitration, except as provided by Section 37 of this Act; and

(c) Damages shall be limited in total value to five hundred thousand dollars ($500,000).

(2) A party may appear without counsel and shall be advised of this right and the right to retain counsel in a manner calculated to inform the person of the nature and complexity of a proceeding by a simple concise form to be distributed by the Administrative Office of the Courts.

(3) Actions commenced under this section shall be in accordance with KRS 413.140.

SECTION 23. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) The arbitration process shall administer the proceeding without charge to the claimant. The administrative expense shall be one hundred fifty dollars ($150) per party per case, or as may be agreed by the parties and the Administrative Office of the Courts.

(2) An arbitration under Sections 20 to 37 of this Act shall be heard by a panel of three (3) arbitrators. The first panel member shall be an attorney who shall be chosen by the plaintiff from a list of three (3) volunteers submitted to the Administrative Office of the Courts by the Kentucky Academy of Trial Attorneys, pursuant to subsection (3) of this section. The second panel member shall be a physician, from the defendant's medical specialty, who shall be chosen by the defendant from a list of three (3) volunteer physicians submitted to the Administrative Office of the Courts by the Kentucky Medical Association, pursuant to subsection (3) of this section. The third panel member shall be a person chosen by agreement of the physician and attorney panel members from a list of experienced arbitrators who are Kentucky residents. The third panel member shall also serve as chairperson of the panel and shall determine hearing dates and locations.

(3) The third panel member shall be a qualified experienced arbitrator selected from a pool of candidates generated by the Administrative Office of the Courts. The Administrative Office of the Courts shall send simultaneously to each party an identical list of three (3) arbitrator candidates together with a brief biographical statement on each candidate. A party may strike from the list any name which is unacceptable and shall number the remaining names in order of preference. When the lists are returned, they shall be compared and the first mutually agreeable candidate in each category shall be invited to serve.

(4) Where no mutually agreed upon arbitrator is selected, the Administrative Office of the Courts shall generate a second list for consideration pursuant to the process defined in subsection (3) of this section. Where no mutually agreed upon arbitrator is selected from the second list, the Administrative Office of the Courts shall randomly select the arbitrator.

(5) The parties shall be restricted to the list of panel candidates submitted to them for consideration.

(6) The physician panel member shall not reside in the area development district where the defendant physician practices or resides, except upon agreement of the plaintiff and defendant.

(7) The attorney panel member shall not reside in the area development district where the plaintiff's attorney practices or resides, except on agreement of the defendant and plaintiff.

(8) The Administrative Office of the Courts, through its director or the director's designee, shall operate the arbitration process, with the initial claims filed with the Administrative Office of the Courts.

(9) All fees pursuant to subsection (1) of this section shall be submitted to the Administrative Office of the Courts to defray related expenses.

(10) Panel members shall be paid at the rate of one hundred dollars ($100) per day plus an amount for necessary expenses, as determined by the Administrative Office of the Courts.

SECTION 24. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Medical Association and the Kentucky Academy of Trial Attorneys shall make an initial screening for bias and shall require a candidate for a particular case to attest and complete a current personal disclosure statement. In addition to other relevant information, the statement shall disclose any personal acquaintance with any of the parties or their counsel and the nature of the acquaintance. If the statement reveals facts which suggest the possibility of partiality, the Kentucky Medical Association or the Kentucky Academy of Trial Attorneys shall communicate those facts to the Administrative Office of the Courts. The Administrative Office of the Courts shall make a final screening for bias and may eliminate from consideration any candidate determined to be unreasonably partial. The Administrative Office of the Courts shall communicate any facts regarding the possibility of the partiality of any arbitrator candidate to the defendant and claimant.

(2) Any party may propound reasonable questions to an arbitrator candidate if the questions are propounded within ten (10) days of the receipt of the candidate's name. Questions shall be propounded through the Administrative Office of the Courts, and the candidate shall respond to the Administrative Office of the Courts within ten (10) days of receipt.

(3) A party shall not communicate with a candidate directly or indirectly except through the Administrative Office of the Courts, the Kentucky Medical Association, or the Kentucky Association of Trial Attorneys any time after the filing of the request for arbitration. Any candidate who is aware of a communication shall immediately notify the

Administrative Office of the Courts.

SECTION 25. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) A minor child shall be bound by a written agreement to arbitrate disputes, controversies, or issues upon the execution of an agreement on his behalf by a parent or legal guardian. The minor child shall not subsequently disaffirm the agreement.

(2) In cases involving a common question of law or fact, if a number of defendants are involved, the disputes, controversies, and issues shall be consolidated into a single arbitration proceeding if the consolidation is consistent with the Kentucky Rules of Civil Procedure.

(3) A person who is not a party to the arbitration agreement may join in the arbitration or be joined at the request of any party with all the rights and obligations of the original parties. Each party to an arbitration under Sections 20 to 37 of this Act shall be required to arbitrate with all parties, whether the parties are original or joined pursuant to this section.

SECTION 26. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) Prior to the institution of a proceeding or claim by a patient, any offer of reparations and all communications incidental thereto made in writing to a patient by a health care provider or hospital is privileged and shall not be used by any party to establish the liability or measure of damages attributable to the offeror.

(2) An offer of reparations shall provide that a patient has thirty (30) days to accept or reject the offer, or a lesser period of time as may be necessitated by the condition of the health of the patient.

(3) After any rejection or the lapse of the applicable time, any party may request binding arbitration.

(4) Any offer to a patient shall include a statement that the patient may consult legal counsel before rejecting or accepting the offer.

(5) If a potential claim is identified by a health care provider or hospital where, in its judgment, reparations are not appropriate, the provider may, at its option, file a request for arbitration which shall identify the potential claim and deny liability.

SECTION 27. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) After the appointment of the panel, the parties to the arbitration may take depositions and obtain discovery regarding the subject matter of the arbitration and use and exercise the same rights, remedies, and procedures, and be subject to the same duties, liabilities, and obligations in the arbitration with respect to the subject matter thereof, as if the subject matter of the arbitration were pending in a civil action in Circuit Court.

(2) The panel shall conclude the entire proceeding as expeditiously as possible.

(3) Discovery shall commence no earlier than twenty (20) days after all parties have received a copy of the agreement to arbitrate and shall be completed within five (5) months after the date that the last party received a copy of the agreement to arbitrate.

(4) A party may be granted an extension of time to complete discovery upon a showing that the extension is not the result of neglect and that the extension is necessary in order to avoid substantial prejudice to the rights of the party.

SECTION 28. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) The name of any expert witnesses who will be called at the arbitration shall be disclosed to the opposing party, who may depose the witness.

(2) Any party may also provide discovery of that party's expert witnesses by the written interrogatory procedure provided in the Kentucky Rules of Civil Procedure. A party may disclose without request or shall disclose, upon request, the name of each expert the party expects to call at the hearing, the subject matter on which the expert will testify, the substance of facts and opinions to which the expert will testify, and a summary of the grounds for each opinion.

(3) If a party is provided or requests the discovery procedure in subsection (2) of this section and the provision or request occurs prior to the date on which an expert is noticed for deposition or other discovery is commenced under prevailing civil practice, any further discovery of the expert by any other party by deposition or otherwise shall obligate the other party to compensate the expert for time and expenses in a reasonable amount as may be determined by the panel.

SECTION 29. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) An arbitration hearing established pursuant to Sections 20 to 37 of this Act shall adhere to the Kentucky Rules of Civil Procedure.

(2) Testimony shall be taken under oath and a record of the proceedings shall be made by a video tape recording. Any party, at that party's expense, may have transcriptions or copies of the recording made or may provide for a written transcript of the proceedings. The cost of any transcription ordered by the panel for its own use shall be deemed part of the cost of the proceedings.

(3) Expert testimony shall not be required; but if expert testimony is used, it shall be admitted under the same circumstances as in a civil trial and be subject to cross-examination.

(4) The party with the burden of establishing a standard of care and breach thereof shall establish standards, either by the introduction of expert testimony or by other competent proof of the standard and breach thereof, which may include the use of works as provided in subsection (5) of this section.

(5) Authoritative, published works on the general and specific subjects in issue may be admitted and argued from, upon prior notice to all other parties.

(6) The panel shall accord that weight and probative worth to expert evidence which it deems appropriate. The panel may call a neutral expert on its own motion, which expert witness shall be subject to cross-examination by the parties. The cost of the expert shall be deemed a cost of the proceeding.

SECTION 30. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

The panel or its chairperson in the arbitration proceeding shall, upon application by a party to the proceeding, and may upon its own determination, issue a subpoena requiring a person to appear and be examined with reference to a matter within the scope of the proceeding, and to produce books, records, or papers pertinent to the proceeding. In case of disobedience to the subpoena, the chairperson or a majority of the arbitration panel in the arbitration proceeding may petition the Circuit Court of the county in which the witness resides or the Circuit Court of the county in which the inquiry is being held to require the attendance and testimony of the witness and the production of books, papers, and documents. A Circuit Court, in case of contumacy or refusal to obey a subpoena, may issue an order requiring the person to appear and to produce books, records, and papers and give evidence related to the matter in question, or which may give rise to matters relevant to the issues in question. Failure to obey the order of the court may be punished by the court as contempt.

SECTION 31. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) On application of a party to the arbitration, the panel or its chairperson may order the deposition of a witness to be taken for use as evidence and not for discovery if the witness cannot be compelled to attend the hearing or if exceptional circumstances exist making it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally at the hearing, to allow the deposition to be taken. The deposition shall be taken in the manner prescribed by law or court rule for the taking of depositions in civil actions.

(2) In addition to the power of determining the merits of the arbitration, the panel may enforce the rights, remedies, procedures, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, consequences, liabilities, sanctions, and penalties as may be imposed in like circumstances in a civil action by a Circuit Court of the Commonwealth, except the power to order the arrest or imprisonment of a person.

(3) For the purpose of enforcing the duty to make discovery, to produce evidence or information, including books and records, and to produce persons to testify at a deposition or at a hearing, and to impose terms, conditions, consequences, liabilities, sanctions, and penalties upon a party for violation of a duty, a party shall be deemed to include every affiliate of the party as defined in subsection (4) of this section. For that purpose, the personnel of an affiliate shall be deemed to be the officers, directors, managing agents, agents, and employees of that party to the same degree as each of them, respectively, bears that status to the affiliate; and the files, books, and records of an affiliate shall be deemed to be in the possession and control of, and capable of production by, the party.

(4) As used in this section, "affiliate" of the party to the arbitration means and includes a party or person for whose immediate benefit the action or proceeding is prosecuted or defended or an officer, director, administrator, member, agent, employee, or managing agent of that party or person.

SECTION 32. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) Except for the parties to the arbitration and their agents, officers, and employees, all witnesses appearing pursuant to subpoena shall be entitled to receive fees and mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in the Circuit Court. The fee and mileage of a witness subpoenaed upon the application of a party to the arbitration shall be paid by that party. The fee and mileage of a witness subpoenaed solely upon the determination of the arbitrator or the majority of a panel of arbitrators shall be paid in the manner provided for the payment of the arbitrator's expenses.

(2) The cost of each arbitrator's fees and expenses, together with any administrative fee, may be assessed against any party in the arbitration decision or may be assessed among parties in the proportions determined in the arbitration decision.

SECTION 33. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) A majority of the panel of arbitrators may grant any relief found to be equitable and just, including money damages, provision for hospitalization, medical, or rehabilitative procedures, support, or any combination thereof.

(2) The panel may order submission of written briefs within thirty (30) days after the close of hearings. In written briefs, each party may summarize the evidence and testimony and may propose a comprehensive award of remedial or compensatory elements.

(3) The panel shall render its decision within thirty (30) days after the close of the hearing or the receipt of briefs, if ordered.

(4) The decision in the arbitration proceeding shall be in writing and shall be signed by the chairperson or by the majority of the panel. The decision shall include a determination of all the questions submitted to arbitration by each party, the resolution of which is necessary to determine the dispute, controversy, or issue.

SECTION 34. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) In addition to the decision, the panel shall render a written opinion which states its reasoning for the finding of liability or nonliability, and the reasoning for the amount and kind of any award. A panel member who disagrees with the majority may write a dissenting opinion.

(2) The panel shall determine the degree to which each defendant party was at fault for the total damages accruing to any other party to the arbitration, considering all sources of damage involving parties to the arbitration, but excluding the damages attributable to persons not parties to the arbitration.

(3) The panel shall prepare a schedule of contributions according to the relative fault of each party, which schedule shall be binding as between those parties, but that determination shall not affect a claimant's right to recover jointly and severally from all parties where that right otherwise exists in the law.

SECTION 35. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) In the case of an award, any element of which includes remedial services, contracts, annuities, or other noncash award element, the panel shall determine the current cash value of each element of the award and shall also determine a total current cash value of the entire award, which shall not exceed five hundred thousand dollars ($500,000).

(2) An award of remedial surgery or care shall not require that the patient undergo that treatment or care by the health care provider whose conduct resulted in the award.

(3) A claimant may refuse to accept the benefits of an award for remedial surgery or other noncash award element, and the refusal shall not affect the claimant's right to receive any other part of the award, nor shall the refusal entitle the claimant to payment of the current cash value of the portion refused.

SECTION 36. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) The Administrative Office of the Courts shall transmit to the commissioner of insurance and the applicable licensing board of any defendant party a copy of the demand for arbitration within ten (10) days of filing. A copy of the decision and opinion of the panel shall be transmitted to the same parties within ten (10) days of the filing of the decision and opinion. The decision and opinion shall be filed for informational purposes and the making or filing of the decision and opinion shall not of itself be a ground for discipline.

(2) The commissioner of insurance shall by July 1, on odd numbered years, compile a report of the total number and type of demands for arbitration and the nature of the decisions and opinions reached and shall transmit the report to the Governor, Legislative Research Commission, Interim Joint Committees on Banking and Insurance and Health and Welfare, and the Kentucky Health Policy Board.

SECTION 37. A NEW SECTION OF KRS CHAPTER 417A IS CREATED TO READ AS FOLLOWS:

(1) In each action brought against a physician relating to alleged negligence, the arbitration panel created pursuant to Section 23 of this Act, shall consider separately, and render a decision within thirty (30) days, any claim that the plaintiff's allegations were without probable cause or merit or were frivolous. For the purposes of this section, "frivolous" allegations means those allegations found by the arbitration panel to be so totally lacking in merit that the allegation appears to have been made in bad faith.

(2) A claim that an allegation was frivolous or was made without probable cause or merit shall be made by the defendant and asserted in the defendant's initial response to the claim, or the recourse established under this section shall be waived.

(3) If a claim that an allegation was frivolous or was made without probable cause or merit is found to be correct by the arbitration panel, the plaintiff shall pay all associated costs and defendant's attorney fees and other expenses, as determined to be reasonable by the arbitration panel.

(4) If a claim of frivolous allegation or of an allegation without probable cause or merit is found to be incorrect by the arbitration panel, the defendant shall pay all associated costs and the plaintiff's attorney fees and other expenses, incurred to consider the claim, as determined to be reasonable by the arbitration panel.

(5) For the purposes of this section, the standard of proof in arbitration panel hearings shall be whether the physician rendered care consistent with applicable practice parameters which existed at the time of service. "Applicable practice parameters" means those guidelines or parameters adopted by the national specialty board governing the procedure or by the federal Agency for Health Care Policy and Research or by other agencies as accepted by the arbitration panel or court.

PART 6

SELF-REFERRAL RESTRICTIONS

SECTION 38. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in KRS 205.510 to 205.630, no provider shall knowingly solicit, receive, or offer any remuneration (including any kickback, bribe, or rebate) for furnishing medical assistance benefits or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be received regardless of source of payment.

(2) (a) No provider shall knowingly make, offer, or receive a payment, a rebate of a fee, or a charge for referring a patient to another provider for furnishing of benefits regardless of source of payment.

(b) Any conduct or activity which does not violate or which is protected under the provisions of 42 U.S.C. sec. 1395nn or 42 U.S.C. sec. 1320A-7B(b), as amended, or federal regulations promulgated under those statutes, shall not be deemed to violate the provisions of this section and the conduct or activity shall be accorded the same protections allowed under federal law and regulation.

(3) Any person who violates subsection (1) or (2) of this section shall be guilty of a Class A misdemeanor unless the combination or aggregation of offenses is valued at three hundred dollars ($300) or more, in which case it shall be a Class D felony. In addition to any other penalty authorized by law, any person who violates the provisions of subsection (2)(a) of this section shall not be entitled to bill or collect from the patient or any third party payor and shall repay any payments due the Commonwealth for services provided which were related to the referral.

PART 7

TWENTY-FOUR HOUR HEALTH COVERAGE

SECTION 39. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 1995, the Kentucky Health Policy Board shall promulgate administrative regulations pursuant to KRS Chapter 13A authorizing the establishment by March 1, 1995, of pilot projects for twenty-four (24) hour health coverage. The total number of participants in the pilot projects cannot exceed five percent (5%) of all insured persons who are covered both by workers compensation and general health insurance. The administrative regulations for the pilot projects shall provide that:

(a) A twenty-four (24) hour policy may cover general health care for purposes of general health insurance, auto insurance, workers' compensation, or health care normally covered by any line of insurance written in the Commonwealth;

(b) A twenty-four (24) hour coverage policy shall not contain deductibles or copayments for medical services or treatment for work-related injuries or diseases; and

(c) There shall be no transfer of liabilities or expenses between or among particular lines of insurance whose medical or health components have been combined into a twenty-four (24) hour coverage for health care.

(2) No policy for twenty-four (24) hour coverage shall become effective until it is reviewed and approved by the board, in consultation with the commissioner of the Department of Insurance.

(3) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, each insurer authorized or licensed to write insurance in the Commonwealth shall provide any information requested by the board for the purpose of developing a twenty-four (24) hour health policy.

(4) The purchase of a twenty-four (24) hour health policy shall not constitute an exemption from statutory provisions which require other nonmedical insurance coverage. However, an insurance carrier shall reduce its premium for insurance coverage written without the medical or health care component. Notwithstanding the provisions of Subtitle 13 of KRS Chapter 304, the premium reduction required in this subsection shall be subject to the approval of the commissioner of the Department of Insurance.

(5) If an employer obtains a twenty-four (24) hour health insurance policy, pursuant to this section, to secure payment of compensation for medical care and treatment under KRS Chapter 342, the employer shall also procure an insurance policy which shall provide indemnity benefits to ensure that the total coverage afforded by both the twenty-four (24) hour insurance policy and the policy providing indemnity benefits, shall provide the total compensation required by KRS Chapter 342.

(6) The participants in a pilot project for twenty-four (24) hour health coverage shall comply with periodic reporting requirements of the Kentucky Health Policy Board.

(7) Each insurer authorized or licensed to write insurance in the Commonwealth shall cooperate with the board and shall provide any information requested by the board for the purpose of studying twenty-four (24) hour health policy.

(8) Each agency of state government shall cooperate with the board if requested to provide information for the purposes of this section.

Section 40. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employee may select the physician to treat ***the*** [~~his~~] injury, and the hospital in which ***treatment may be rendered*** [~~he shall be treated~~]. The employer, or an insurer on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of such services within thirty (30) days of receipt of a statement for services. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter if appropriate as long as medical services are rendered.

(2) ***Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.***

(3) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall initially pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces.

(4)[~~(3)~~] Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat ***the*** [~~his~~] injury or disease, or because of the hospital selected by the employee in which ***treatment is being rendered*** [~~he is being treated~~], that the employee is not receiving proper medical treatment and ***the*** [~~his~~] recovery is being substantially affected or delayed; or that the funds for [~~his~~] medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for ***the*** [~~his~~] injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(5)[~~(4)~~] An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury for which the employee claims compensation.

Section 41. KRS 342.375 is amended to read as follows:

Every policy or contract of workers' compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to ***each employee*** [~~every one of his employees~~] subject to this chapter, except as otherwise provided in KRS 342.345 ***or Sections 39 to 40 of this Act***. However, if specifically authorized by the commissioner, a separate insurance policy may be issued for a specified plant or work location if the liability of ***the*** [~~such~~] employer under this chapter to ***each employee*** [~~all his other employees~~] subject to this chapter is otherwise secured and provided that no employee transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

PART 8

CERTIFICATE OF NEED

Section 42. KRS 216B.010 is amended to read as follows:

The General Assembly finds that the licensure of health facilities***,*** [~~and~~] health services***, and health care providers*** is a means to insure that the citizens of this Commonwealth will have safe, adequate***,*** and efficient medical care; that the proliferation of unnecessary health care facilities, health services and major medical equipment results in costly duplication and underuse of such facilities, services and equipment; and that such proliferation increases the cost of quality health care within the Commonwealth. Therefore, it is the purpose of this chapter to ***fully authorize and empower the Kentucky Health Policy Board to perform any certificate-of-need function and other statutory functions necessary to improve the quality and increase access to health care facilities, services, and providers, and to create a cost-efficient health care delivery system for the citizens of the Commonwealth. The Kentucky Health Policy Board may recommend to the Kentucky General Assembly methods to increase access to health care facilities, services, and providers*** [~~provide for the establishment of the Commission for Health Economics Control in Kentucky for the purpose of acting on applications for certificates of need~~].

Section 43. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(3) "Applicant" means ***any physician's office requesting a major medical equipment expenditure of five hundred thousand dollars ($500,000) or more or*** any person, health facility, or health service requesting a certificate of need or license***, from the Kentucky Health Policy Board***.

(4) ***"Board" means the Kentucky Health Policy Board created by Section 2 of this Act.***

(5) "Cabinet" means the Cabinet for Human Resources.

(6)[~~(5)~~] "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

- (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
- (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(7)[~~(6)~~] "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning ***with the effective date of this section*** [~~July 15, 1990,~~] and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(8)[~~(7)~~] "Certificate of need" means an authorization by the ***board*** [~~commission to proceed~~] to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter.

[~~(8) "Commission" means the Commission for Health Economics Control in Kentucky.~~

~~(9) "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.~~]

(9)[~~(10)~~] "Formal review process" means the ninety (90) day certificate of need review conducted by the ***board*** [~~commission~~].

(10)[~~(11)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance services, nonemergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(11)[~~(12)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(12)[~~(13)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum[~~, except that the term does not include medical equipment acquired by or on behalf of a medical laboratory~~]. For purposes of this ***subsection*** [~~paragraph~~], "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning ***with the effective date of this section*** [~~July 15, 1990,~~] and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included.

(13)[~~(14)~~] "Nonsubstantive review" means an expedited review conducted by the ***board*** [~~cabinet~~] of an application for a certificate of need as authorized under KRS 216B.095.

(14)[~~(15)~~] "Nonclinically related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices.

(15)[~~(16)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(16)[~~(17)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state.

(17)[~~(18)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet or the ***board*** [~~commission~~];

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet or the ***board*** [~~commission~~] regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet or the ***board*** [~~commission~~];

(e) Any recommendation or decision of the ***board*** [~~cabinet~~];

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the ***board*** [~~commission~~] or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the ***board*** [~~commission~~].

(18)[~~(19)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(19)[~~(20)~~] "State health plan" means the document prepared***, under the direction of the board*** triennially, updated annually, [~~and duly adopted by the state health planning council~~] and approved by the Governor.

[~~(21) "State Health Planning Council" means the Council for Health Services established under KRS 194.090.~~]

(20)[~~(22)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(21)[~~(23)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility.

(22)[~~(24)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(23)[~~(25)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person.

(24)[~~(26)~~] ***"To batch"*** [~~To "batch"~~] means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area.

(25)[~~(27)~~] "To establish" means to construct, develop, or initiate a health facility.

(26)[~~(28)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract.

(27)[~~(29)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 44. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to ***any hospital which does not charge its patients for hospital services and does not seek or accept medicare, medicaid, or other financial support from the federal government or any state government;*** family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) [~~The provisions of this chapter that relate to the issuance of a certificate of need shall not apply, after September 15, 1991, to licensed acute care hospitals, as defined by administrative regulation, in counties with more than 3,000 acute care hospital beds, except as these provisions relate to rehabilitation beds and long-term care beds.~~

~~(3)~~] Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts ***unless the physician's office meets the criteria set forth in subsection (3) of Section 43 of this Act***;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; ***unless the physician's office meets the criteria set forth in subsection (3) of Section 43 of this Act,*** except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3)[~~(4)~~] An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

Section 45. KRS 216B.035 is amended to read as follows:

(1) The ***board*** [~~secretary~~] shall ***hire any*** [~~provide the commission such~~] administrative staff [~~assistance as may be~~] required by the ***board*** [~~commission~~] to carry out its duties and functions under the provisions of this chapter.

(2) The chairman shall keep a full and true record of all the proceedings of the ***board*** [~~commission~~], of all books and papers ordered filed by the ***board*** [~~commission~~], and of all exemptions and certificates of need issued by the ***board*** [~~commission~~], and shall be responsible to it for the safe custody and preservation of all documents in its office. Under the direction of the ***board*** [~~commission~~], the ***executive director*** [~~chairman~~] shall have general charge of its office, superintend its clerical business***,*** and perform such other duties as the ***board*** [~~commission~~] prescribes. ***The executive***

director and chairman [~~He~~] may administer oaths in all parts of the state, where the exercise of that power is properly incidental to the performance of ***their*** [~~his~~] duties or those of the ***board*** [~~commission~~].

Section 46. KRS 216B.040 is amended to read as follows:

(1) The ***board*** [~~commission~~] shall have four (4) separate and distinct functions ***in administering this chapter***:

(a) To approve or deny certificates of need in accordance with the provisions of this chapter, except as to those applications which have been granted nonsubstantive review status by the chairman;

(b) To issue and to revoke certificates of need;

(c) To provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify, or suspend licenses of health facilities and health services issued by the cabinet; and

(d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to its functions.

(2) The ***board*** [~~commission~~] shall:

(a) ***Promulgate*** [~~Issue~~] administrative regulations ***pursuant to the provisions of KRS Chapter 13A***[~~through the secretary~~]:

1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.

2. To establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:

a. Consistency with plans. ***Each proposal approved by the board shall*** [~~The proposals may~~] be consistent with the state health plan***, subject to biennial budget authorizations and limitations, and with consideration given to the proposal's impact on health care costs in the Commonwealth***. The state health plan shall contain a need assessment for long-term care beds, which shall be based on a statistically valid analysis of the present and future needs of the state as a whole and counties individually. The need assessment shall be applied uniformly to all areas of the state. The methodology shall be reviewed and updated on an annual basis. The fact that the state health plan shall not address the specific type of proposal being reviewed shall not constitute grounds for disapproval of the proposal;

b. Need and accessibility. The proposal shall meet an identified need in a defined geographic area and be accessible to all residents of the area. A defined geographic area shall be defined as the area the proposal seeks to serve, including its demographics, and shall not be limited to geographical boundaries;

c. Interrelationships and linkages. The proposal shall serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system;

d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, shall be judged to be an effective and economical use of resources, not only of capital investment, but also ongoing requirements for health manpower and operational financing;

e. Quality of services. The applicant shall be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services***, as established by the board*** [~~and~~];

f. Hospital based skilled nursing, intermediate care and personal care beds shall [~~not~~] be considered by the ***board*** [~~commission~~] in determining the need for freestanding long-term care beds.

(b) Conduct public hearings, as requested, in respect to certificate of need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.

(3) The ***board*** [~~commission~~] may:

(a) Issue other administrative regulations [~~through the secretary~~] necessary for the proper administration of ***this chapter*** [~~its functions~~];

(b) Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the ***board*** [~~commission~~], and the process shall extend to all parts of the Commonwealth. Service of process in all proceedings brought before or initiated by the ***board*** [~~commission~~] may be made by certified mail, or in the same manner as other process in civil cases, as the ***board*** [~~commission~~] directs;

(c) Establish by ***promulgation of*** administrative regulation ***under KRS Chapter 13A*** reasonable application fees for certificates of need;

(d) Appoint technical advisory committees as are deemed necessary to administer its functions under the provisions of this chapter; [~~and~~]

(e) Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need***; and***

(f) Establish a mechanism for biennial review of projects for compliance with the terms of the certificate of need.

Section 47. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by ***promulgation of*** administrative regulation under KRS Chapter 13A reasonable application fees for licenses and ***promulgate*** [~~issue~~] other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter; and

(c) Establish licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. These regulations, under KRS Chapter 13A, shall include, but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel, and minimum standards for maintaining patient records;

2. Licensure application and renewal procedures; and

3. Classification of health facilities and health services according to type, size, range of services, and level of care.

(2) The cabinet ***or board*** may authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated ***under KRS Chapter 13A*** by the ***board or*** [~~commission and~~] the cabinet.

(3) The board may revoke licenses or certificates of need for specific health facilities or health services or recommend the initiation of disciplinary proceedings for health care providers on the basis of the knowing violation of any provisions of this chapter.

Section 48. KRS 216B.045 is amended to read as follows:

Every order, decision, finding, license or certificate issued or approved by the ***board*** [~~commission~~] or cabinet under any of the provisions of this chapter shall be in writing and shall be entered on the records of the ***board*** [~~commission~~] or cabinet.

Section 49. KRS 216B.050 is amended to read as follows:

The ***board*** [~~commission~~] or cabinet may compel obedience to its lawful orders by mandamus, injunction***,*** or other proper proceedings in the Franklin Circuit Court or any other Circuit Court of competent jurisdiction. Every order entered by the ***board*** [~~commission~~] or cabinet shall continue in force until the expiration of the time, if any, named by the ***board*** [~~commission~~] or cabinet in the order, or until revoked or modified.

Section 50. KRS 216B.055 is amended to read as follows:

Notice of decisions and orders made by the ***board*** [~~commission~~] or cabinet under the provisions of this chapter shall be made by certified mail addressed to the last known address on file with the cabinet or ***board*** [~~commission~~], or by personal service. ***The*** [~~Such~~] notice shall be mailed or personal service shall be obtained no later than fifteen (15) working days after the decision or order. Notice shall be complete and effective upon mailing.

Section 51. KRS 216B.061 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall do any of the following without first obtaining a certificate of need:

(a) Establish a health facility;

(b) Obligate a capital expenditure which exceeds the capital expenditure minimum;

(c) Make a substantial change in the bed capacity of a health facility;

(d) Make a substantial change in a health service;

(e) Make a substantial change in a project;

(f) Acquire major medical equipment;

(g) Alter a geographical area or alter a specific location which has been designated on a certificate of need or license;

(h) Transfer an approved certificate of need for the establishment of a new health facility or the replacement of a licensed facility.

(2) No person shall separate portions of a single project into components in order to evade any expenditure minimum set forth in this chapter. For purposes of this chapter, the acquisition of one (1) or more items of functionally related diagnostic or therapeutic equipment shall be considered as one (1) project.

(3) No person shall have ex parte contact with any member of the ***board*** [~~commission~~] regarding a certificate of need application from the commencement of the review cycle to the final decision. ***If*** [~~In the event~~] an ex parte contact occurs, it shall be promptly made a part of the record.

(4) No person shall obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless ***the person*** [~~he~~] has received an administrative escalation from the ***board*** [~~commission~~] as prescribed by regulation.

(5) No person shall proceed to obligate a capital expenditure under an approved certificate of need if there has been a substantial change in the project.

(6) A certificate of need shall be issued for a specific location and, when applicable, for a designated geographical area.

Section 52. KRS 216B.062 is amended to read as follows:

(1) Applications for certificates of need shall be submitted according to timetables established by the ***board*** [~~commission~~] by ***promulgation of*** administrative regulation***, pursuant to the provisions of KRS Chapter 13A***. Once an application has been deemed complete pursuant to the ***board's administrative*** [~~commission's adopted~~] regulations, notice shall be given as provided by the regulations of the beginning of the review, the proposed review schedule, and the right to request a hearing. The review shall be deemed to commence on the date of notice. No review shall take longer than ninety (90) days from the commencement of the review unless the applicant agrees to a deferral of action.

(2) Applications proposing the same or similar types of services, facilities, or equipment shall be batched for review purposes, excluding those granted nonsubstantive review status. The ***board*** [~~commission~~] shall by ***promulgation of administrative*** regulation ***under KRS Chapter 13A*** establish appropriate batching groups to assure that applications for each type of service, facility, or equipment will be eligible for consideration at set intervals. In each review batch, the ***board*** [~~commission~~] shall review and, if appropriate, compare all timely filed applications proposing similar types of services, facilities, or equipment in the same health service areas.

Section 53. KRS 216B.065 is amended to read as follows:

(1) Before any person enters into a contractual agreement to acquire a licensed health facility, the person shall notify the ***board*** [~~commission~~] of the [~~person's~~] intent to acquire the facility or major medical equipment and of the services to be offered in the facility and its bed capacity or the use of ***the*** [~~such~~] medical equipment. The notice shall be in writing and shall be filed at least thirty (30) days prior to entry into a contract to acquire the health facility or major medical equipment with respect to which the notice is given.

(2) A certificate of need shall be required for the acquisition of a health facility or major medical equipment, only if:

(a) The notice required in this section is not filed and the arrangement will require the obligation of a capital expenditure which exceeds the capital expenditure minimum; or

(b) The ***board*** [~~commission~~] finds within thirty (30) days after the date it received notice that the health services or bed capacity of the health facility will be substantially changed in being acquired.

(3) Donations, transfers, and leases of major medical equipment and health facilities shall be considered acquisitions of equipment and facilities, and an acquisition of medical equipment or a facility for less than fair market value shall be considered an acquisition if the fair market value exceeds the expenditure minimum.

(4) Before any health facility reduces or terminates a health service or reduces its bed capacity, the facility shall notify the ***board*** [~~commission~~] of its intent. The notice shall be in writing and shall be filed at least thirty (30) days prior to the reduction or termination. A certificate of need shall be required for the reduction or termination only if the notice required in this section is not filed.

Section 54. KRS 216B.066 is amended to read as follows:

(1) Before a health facility acquires major medical equipment to be used solely for research, offers a health service solely for research or makes or obligates a capital expenditure solely for research, which exceeds the prescribed minimum, the health facility shall notify the ***board*** [~~commission~~] of its intent to do so. ***The*** [~~Such~~] notice shall be in writing and shall be made sixty (60) days prior to the acquisition, offering, or making or obligation of the expenditure with respect to which notice is given. The notice shall state the use to be made of the major medical equipment, health service or capital expenditure.

(2) A certificate of need shall be required for the acquisition of major medical equipment solely for research, the offering of a health service solely for research or the making or obligating of a capital expenditure solely for research by a health facility, only if:

(a) The notice required by this section is not filed; or

(b) The ***board*** [~~commission~~] finds within sixty (60) days after it receives notice that the project or transaction for which notice is given will affect the charges of the facility for the provision of medical or other patient care services other than services which are included in the research, will substantially change the bed capacity of the facility, or will substantially change the medical or other patient care services of the facility which were offered before the acquisition, offering, making or obligation.

(3) If major medical equipment is acquired, a health service is offered or a capital expenditure is made or obligated and, pursuant to this section, no certificate of need is required, ***the*** [~~such~~] equipment [~~or~~] service or facilities acquired through the capital expenditure ***shall*** [~~may~~] not be used in a manner which would affect the charges of the facility for the provision of medical or other patient care services other than that included in the research, substantially change the bed capacity of the facility or substantially change the medical or other patient care services of the facility unless a certificate of need is issued.

(4) For purposes of this section, "solely for research" means patient care provided on an occasional and irregular basis and not as part of a research project.

Section 55. KRS 216B.075 is amended to read as follows:

The ***board*** [~~commission~~] shall [~~, within ninety (90) days, following the date this chapter becomes effective,~~] promulgate administrative regulations respecting application and review procedures ***to comply with any*** [~~consistent with the~~] federal ***laws*** [~~act~~] and regulations promulgated thereunder.

Section 56. KRS 216B.085 is amended to read as follows:

(1) Any time no later than fifteen (15) days after the date the review commences, any affected person may request a public hearing. Hearings shall be before a quorum of the ***board*** [~~commission~~], or, at the request of the chairman, before a member of the ***board*** [~~commission~~] designated by the chairman to serve as hearing officer. The hearing officer shall be authorized to administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in the proceedings.

(2) If a hearing is requested, the chairman shall set a date, time, and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the ***board*** [~~commission~~].

(3) At the hearing, any party to the proceedings shall have the right to be represented by counsel, and to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing, and may conduct reasonable cross-examination under oath of persons who make factual allegations relevant to such matters. A full and complete record shall be maintained of the hearing.

(4) Any decision of the ***board*** [~~commission~~] to issue or deny a certificate of need shall be based solely on the record established with regard to the matter. All decisions granting, denying, or modifying a certificate of need shall be made by the ***board*** [~~commission~~] in writing and shall be recorded in the minutes of the ***board*** [~~commission~~]. The ***board*** [~~commission~~] shall notify the parties to the proceedings of the decision and the decision shall be final for purposes of judicial appeal unless a request for reconsideration is filed. An approved certificate of need shall be issued forty (40) days after notice of the ***board's*** [~~commission's~~] decision unless a request for reconsideration is filed or a judicial appeal is taken and issuance is enjoined by the court.

Section 57. KRS 216B.086 is amended to read as follows:

(1) The ***board*** [~~commission~~] may revoke a certificate of need, or portion thereof, for failure of the holder of the certificate to implement the project in accordance with timetables and standards for implementation established by administrative regulation of the ***board*** [~~commission~~]. The ***board*** [~~commission~~] shall give notice to the holder of the certificate of its initial decision to revoke the certificate of need or portion thereof. The ***board's*** [~~commission's~~] initial decision to revoke a certificate of need or portion thereof shall become final after thirty (30) days unless a hearing is requested. The chairman shall give notice to the holder of the certificate of a decision which has become final under the provisions of this subsection.

(2) The holder of the certificate of need to be revoked may request in writing a public hearing in respect to an initial decision by the ***board*** [~~commission~~] to revoke a certificate of need within thirty (30) days of the date of notice of the initial decision. Failure to request a hearing shall constitute a waiver of any right to reconsideration or judicial appeal of a final ***board*** [~~commission~~] decision to revoke a certificate of need.

(3) The hearing shall be before the ***board*** [~~commission~~], or at the request of the chairman, before a member of the ***board*** [~~commission~~] designated by the chairman to be the hearing officer. The hearing shall be no later than thirty (30) days after the request for the hearing is filed.

(4) ***If*** [~~In the event~~] a hearing is requested, the chairman shall set a date, time, and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the ***board*** [~~commission~~].

(5) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the revocation of the certificate of need, and may conduct reasonable cross-examination under oath of persons who testify. A full and complete record shall be maintained of the hearing, and all testimony shall be recorded but not be transcribed unless the ***board's*** [~~commission's~~] final decision is appealed pursuant

to this chapter.

(6) After the issuance of an initial decision to revoke a certificate of need and before a final decision is made, no person shall have ex parte contacts with members of the ***board*** [~~commission~~] regarding the revocation. ***If*** [~~In the event~~] an ex parte contact occurs, it shall be promptly made a part of the record.

(7) If a hearing is requested after notice of the ***board's*** [~~commission's~~] initial decision to revoke a certificate of need, the ***board*** [~~commission~~] shall make a final decision ***within thirty (30) days*** [~~at its next regularly scheduled meeting~~] after the hearing. Any final decision revoking a certificate of need shall be made by the ***board*** [~~commission~~] in writing and shall be recorded in the minutes of the ***board*** [~~commission~~]. The ***board*** [~~commission~~] shall notify the parties to the proceedings of the final decision.

(8) Any final decision of the ***board*** [~~commission~~] to revoke a certificate of need shall be based solely on the record established with regard to the revocation.

(9) Except as provided in subsection (1) of this section, reconsideration pursuant to KRS 216B.090 or judicial appeal pursuant to KRS 216B.115 is available with regard to a final decision of the ***board*** [~~commission~~] to revoke a certificate of need.

Section 58. KRS 216B.090 is amended to read as follows:

(1) Any party to the proceedings may, for good cause shown, request in writing a hearing for purposes of reconsideration of a decision of the ***board*** [~~commission~~] pertaining to a certificate of need or the revocation of a certificate of need under [~~such~~] procedures [~~as are~~] promulgated by administrative regulation. The request shall be filed within fifteen (15) days of the notice of the decision. For purposes of this section there shall be deemed to be "good cause shown" if the request for a public hearing:

    (a) Presents significant, relevant information not previously available for consideration by the ***board*** [~~commission~~];

    (b) Demonstrates that there have been significant changes in the factors or circumstances relied upon by the ***board*** [~~commission~~] in reaching its decision;

    (c) Demonstrates that the ***board*** [~~commission~~] has materially failed to follow its adopted procedures in reaching its decision; or

    (d) States that a public hearing pursuant to KRS 216B.085 was not conducted prior to a decision to deny a certificate of need.

(2) If a public hearing is granted, it shall be held within thirty (30) days after the decision to grant the request for reconsideration. The hearing shall be conducted in accordance with the provisions of this chapter. The ***board*** [~~commission~~] shall make its decision on reconsideration and shall give notice thereof. The decision of the ***board*** [~~commission~~] shall be final for purposes of judicial appeal. An approved certificate of need shall be issued forty (40) days after notice of the ***board's*** [~~commission's~~] decision unless a judicial appeal is taken and issuance is enjoined by the court.

Section 59. KRS 216B.095 is amended to read as follows:

(1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review as provided below. The ***board may*** [~~chairman shall~~] grant or deny nonsubstantive review status within ten (10) days of the date the application is deemed completed and shall give notice to all affected persons of the decision to conduct a nonsubstantive review. Any affected person other than the applicant may request a hearing by filing a request with the ***board*** [~~commission~~] within ten (10) days of the notice to conduct a nonsubstantive review. As applicable, hearings shall be conducted as provided in KRS 216B.085. Based solely upon the record established with regard to the matter, the ***board*** [~~commission~~] shall approve or deny a certificate of need on all projects assigned nonsubstantive review status within thirty-five (35) days of the determination of nonsubstantive review status. If the application is denied nonsubstantive review status, it shall automatically be placed in the formal review process.

(2) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next cycle of the formal review process. Nothing in this subsection shall require an applicant to pursue a formal review before obtaining judicial review pursuant to KRS 216B.115.

(3) The ***board may*** [~~chairman shall~~] grant nonsubstantive review status to an application for a certificate of need which is required:

    (a) To change the location of a proposed health facility;

    (b) To replace or relocate a licensed health facility, ***if*** [~~provided~~] there is no substantial change in health services or substantial change in bed capacity;

    (c) To replace or repair worn equipment ***if the*** [~~provided such~~] worn equipment ***has*** [~~shall have~~] been used by the applicant in a health facility for five (5) years or more;

    (d) For cost escalations;

    (e) [~~For change of ownership when applicable;~~

~~(f)~~] To establish an industrial ambulance service; or

(f)[~~(g)~~] In other circumstances the ***board*** [~~commission~~] by ***administrative*** regulation may prescribe.

(4) Notwithstanding any other provision to the contrary in this chapter, the ***board may*** [~~commission shall~~] approve a certificate of need for a project required for the purposes set out in ***paragraphs*** (a) through ***(f)***[~~(g)~~] of subsection (3) ***of this section*** [~~hereof~~], unless it finds the facility or service with respect to which the capital expenditure is proposed to be made is not [~~in fact so~~] required; or to the extent the facility or services contemplated by the proposed capital expenditure is addressed in the state health plan, the ***board*** [~~commission~~] finds that the capital expenditure is not consistent with the state health plan.

(5) The decision of the ***board*** [~~commission~~] approving or denying a certificate of need pursuant to this section shall be final for purposes of judicial appeal, unless the applicant requests the application be placed in the formal review process. An approved certificate shall be issued thirty (30) days after notice of the ***board's*** [~~commission's~~] decision, unless a judicial appeal is taken and issuance is enjoined by the court.

Section 60. KRS 216B.105 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall operate any health facility in this Commonwealth without first obtaining a license issued by the ***board*** [~~cabinet~~], which license shall specify the kind or kinds of health services the facility is authorized to provide. A license shall not be transferable and shall be issued for a specific location and, if specified, a designated geographical area.

(2) The ***board may*** [~~cabinet shall have the authority to~~] deny, revoke, modify or suspend a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated hereunder. ***The*** [~~Such~~] denial, revocation, modification, or suspension shall be effected by mailing to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for ***the*** [~~such~~] action. ***The*** [~~Such~~] denial, revocation, modification, or suspension shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within ***the*** [~~said~~] thirty (30) day period, shall file a request in writing for a hearing with the ***board*** [~~commission~~].

(3) The hearing shall be before the ***board*** [~~commission~~], or before a member of the ***board*** [~~commission~~] designated to serve as hearing officer by the chairman.

(4) If the hearing is before a designated hearing officer, within thirty (30) days from the conclusion of the hearing, the [~~hearing officer shall transmit his~~] findings and recommendations ***of the hearing officer shall be transmitted*** to the ***board*** [~~commission~~], with a synopsis of the evidence contained in the record and a statement of the basis of ***the hearing officer's*** [~~his~~] findings. The applicant or licensee shall be entitled to be represented at the hearing in person or by counsel, or both, and shall be entitled to introduce testimony by witnesses or, if the ***board*** [~~commission~~] so permits, by depositions. A full and complete record shall be kept of all hearings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to this chapter. The ***board*** [~~commission~~] may adopt the hearing officer's findings and recommendations or prepare written findings of fact and state the basis for its decision which shall become part of the record of the proceedings.

(5) All decisions revoking, suspending, modifying or denying licenses shall be made by the ***board*** [~~commission~~] in writing and shall be recorded in the minutes of the ***board*** [~~commission~~]. The ***board*** [~~commission~~] shall notify the applicant or licensee of the decision.

(6) The decision of the ***board*** [~~commission~~] shall be final for purposes of judicial appeal upon notice of the ***board's*** [~~commission's~~] decision.

Section 61. KRS 216B.115 is amended to read as follows:

(1) An appeal to the Franklin Circuit Court may be taken from any final decision of the ***board*** [~~commission or cabinet~~] with respect to a certificate of need application, a certificate of need, or a license, by any party to the proceedings.

(2) An appeal may be taken by filing a petition for review in the Franklin Circuit Court within thirty (30) days after notice of the final decision unless a request for reconsideration has been filed, in which case the petition shall be filed within fifteen (15) days of the ***board's*** [~~commission's~~] decision not to reconsider or notice of its decision on reconsideration. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The petitioner shall serve a copy of the petition to each person who was a party to the proceedings. Summons shall be issued upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. The ***board*** [~~commission or cabinet~~] shall, upon being served with the summons and within thirty (30) days thereafter, file a copy of the record, duly certified by the [~~cabinet or the~~] chairman of the ***board*** [~~commission~~], the cost of the record to be taxed as costs upon appeal. In lieu of filing of the record, an abstract thereof may be filed if all parties to the appeal agree.

Section 62. KRS 216B.120 is amended to read as follows:

(1) Each party to the proceedings may participate as a party in the proceedings in the Circuit Court on an appeal.

(2) In case of an appeal, no new or additional evidence may be introduced in the Circuit Court except as to fraud or

misconduct of some person engaged in the administration of this chapter and affecting the decision or order, the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether the ***board*** [~~commission~~] or cabinet acted within its jurisdiction, whether the decision or order was procured by fraud, and whether the findings of fact in issue are supported by substantial evidence and are not clearly erroneous based upon a review of the record as a whole.

(3) The court shall enter judgment affirming, modifying, reversing, or setting aside the decision or, in its discretion, remanding the case to the ***board*** [~~commission~~] or cabinet for proceedings in conformity with the directions of the court. If the court affirms the issuance of the certificate of need, the holder of the certificate shall be entitled to recover its costs of defense of the appeal, including its attorney's fees. The decision of the Circuit Court shall be final and nonappealable.

(4) In any case in which the granting of a license or certificate of need is appealed by a competing health care provider, the court shall require the appellant to post a bond, with good and sufficient surety, in ***the*** [~~such~~] sum [~~as~~] the court deems proper, for the payment of the costs and damages as may be incurred or suffered by the certificate of need or license applicant as a result of the filing and pendency of the appeal. Failure to post the bond as required by the court shall result in the dismissal of the appeal. If the decision of the ***board*** [~~commission~~] granting the certificate of need or license is sustained, the court shall order the appellant health care provider to pay the applicant its costs incurred and damages suffered as a result of the filing and pendency of the appeal, which shall not be limited to the amount of the bond. The court shall not withhold the finality of its decision on the merits of the appeal pending the determination as to ***the*** [~~such~~] costs and damages. As used in this section, "competing health care provider" means any health facility or health maintenance organization which competes with the applicant for patients, customers, the services of health care personnel, or policy holders.

Section 63. KRS 216B.125 is amended to read as follows:

If [~~In the event~~] the cabinet or ***board*** [~~commission~~] fails to issue or deny a certificate of need or an exemption pursuant to this chapter within the time prescribed under this chapter or administrative regulations promulgated by the ***board*** [~~commission~~], the applicant may seek judicial enforcement of this chapter by filing a civil action in Franklin Circuit Court.

Section 64. KRS 216B.130 is amended to read as follows:

Any other provisions of this chapter notwithstanding, any expenditure minimum or limit as provided in this chapter shall be adjusted for each twelve (12) month period beginning twelve (12) months after ***the effective date of this Act*** [~~July 15, 1980~~], to reflect the changes in the preceding twelve (12) month period in a cost index designated by regulation for the purposes of making ***the*** [~~such~~] adjustment. The ***board*** [~~commission~~] shall effect ***the*** [~~such~~] adjustment by administrative regulations.

Section 65. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

  (a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;

  (b) Department for Social Services;

  (c) Local school districts;

  (d) Psychiatric hospitals; and

  (e) Any other agency, organization, or facility deemed appropriate by the ***board*** [~~Commission on Health Economics Control~~].

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital.

(5) [~~If a psychiatric residential treatment facility is licensed prior to April 9, 1992, and pursuant to KRS 216B.020, the facility shall be exempt from subsections (1) and (4) of this section, if the facility is in compliance with the administrative regulations in effect on the date of the licensure.~~

~~(6)~~] The total number of psychiatric residential treatment facility beds shall not exceed sixteen (16) beds in any area development district with less than 275,000 population; thirty-two (32) beds in any area development district with 275,000 to 550,000 population; and forty-eight (48) beds in any area development district with over 550,000 population.

PART 9

THE KENTUCKY HEALTH PURCHASING ALLIANCE

SECTION 66. SUBTITLE 17A OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS

CREATED TO READ AS FOLLOWS:

As used in Sections 66 to 72 of this Act:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and as certified by the alliance pursuant to Section 72 of this Act.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by Section 67 of this Act.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Board" means the Kentucky Health Policy Board created by Section 2 of this Act.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the Kentucky Health Policy Board but which operates independently of the board and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which is certified by the Kentucky Health Policy Board pursuant to Section 70 of this Act.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the board by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard health benefit plan as established in Section 80 of this Act which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance and individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) (a) "Mandatory alliance member" means:

1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;

2. Employees of state institutions of higher education;

3. Elected and salaried employees of local school districts;

4. Employees of local and district health departments;

5. Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts;

6. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and

7. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law.

(b) With respect to subparagraphs 2. to 6. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on the effective date of this Act or for which health care coverage is extended after the effective date of this Act, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on the effective date of this Act.

(18) "Medical outcomes" means a change in an individual's health status after the provision of health services.

(19) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(20) "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(21) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(22) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(23) "Voluntary alliance member" means:

(a) An employer with one hundred (100) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; and

(b) An individual who voluntarily chooses to participate in a health purchasing alliance.

SECTION 67. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Health Purchasing Alliance consisting of the entire Commonwealth. The alliance shall operate independently from the Kentucky Health Policy Board but shall be attached to the Kentucky Health Policy Board for administrative purposes. The alliance shall be operational by July 15, 1995.

(2) The alliance designated in subsection (1) of this section shall be the only entities permitted to operate as a statewide health purchasing alliance in the Commonwealth and shall operate for the benefit of the members of the alliance. The alliance is the exclusive entity for the oversight and coordination of alliance member purchases. Any health benefit plan offered through the alliance shall be offered by an accountable health plan and the alliance shall not:

(a) Directly provide insurance;

(b) Directly contract, for purposes of providing insurance, with a health care provider or provider network, unless the provider or network constitutes an accountable health plan; or

(c) Bear any risk, or form self-insurance plans among its members.

Nothing in Sections 66 to 72 of this Act shall limit or authorize the formation of business health coalitions; however, a person or entity that pools together or assists in purchasing health coverage shall not discriminate in its activities based on the health status or historical or projected claims experience of such employers or recipients.

(3) Participation in the alliance shall be limited to mandatory alliance members and voluntary alliance members. The

alliance shall be open to voluntary membership by those persons set forth in subsection (23) of Section 66 of this Act.

(4) The alliance shall be governed by a board of directors consisting of five (5) members to be appointed by the Governor and confirmed by the Kentucky Senate. Members shall have expertise in business, finance, economics, or health benefits management and shall represent the interests of employers and health care consumers. No member shall be, nor have been:

(a) A health care provider or health insurer;

(b) An employee of a health care provider, health insurer, or health plan; or

(c) A person having a fiduciary relationship to a health care provider, health insurer, or health plan.

(5) The Governor may at any time remove any member of the alliance board of directors for cause after furnishing the member with a written copy of the charges against the member and affording the member a public hearing if requested.

(6) The alliance may have regional advisory boards with the number of members, terms of office, and conditions of participation to be determined by the alliance and with the members to be appointed by the Governor from a list of three (3) candidates for each open position on each regional advisory board submitted by the President of the Senate and the Speaker of the House; however, the terms of office of any member of a regional advisory board shall not exceed four (4) years. The qualifications for regional advisory board members shall be the same as for alliance board members as set forth in subsection (4) of this section.

(7) The members of the alliance board of directors and regional advisory boards shall be reimbursed for actual expenses incurred in the discharge of the member's duties.

(8) The alliance board of directors shall employ a chief executive officer and comptroller for the alliance. The chief executive officer shall employ any professional staff necessary to carry out the duties of the alliance and any regional advisory board subject to the approval of the Kentucky Health Policy Board.

(9) No member of the alliance board of directors or any regional advisory board shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of the alliance.

(10) Nothing in Sections 66 to 72 of this Act shall be construed to prohibit or compel the health purchasing alliance or an accountable health plan from using the services of a licensed insurance agent or broker in order to assist in marketing, consumer education, claims assistance, grievance resolution, and servicing of health benefit coverage offered by the accountable health plan or through the health purchasing alliance. Any commissions or compensation paid by an accountable health plan to a licensed insurance agent or broker shall be determined between the accountable health plan and the agent or broker. An accountable health plan shall not vary compensation or commissions to such agents, brokers, contractors, or producers based directly or indirectly, on the anticipated or actual claims experience or health status associated with particular employers to which each plan is sold.

SECTION 68. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The duties of the Kentucky Health Purchasing Alliance shall be as follows:

(1) Establishing the conditions of alliance membership as set forth in Section 67 of this Act;

(2) Providing assistance to alliance members in selecting and obtaining coverage through accountable health plans and providing alliance members with clear, standardized information in the following areas:

(a) A description of each accountable health plan under contract with the alliance and each health benefit plan offered by each accountable health plan;

(b) Price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities for each accountable health plan and health benefit plan offered through the alliance; and

(c) A comparison sheet containing each accountable health plan participating in the alliance with information on basic coverage that may be obtained through the alliance;

(3) Annually offering to all alliance members all accountable health plans and health benefit plans offered by the accountable health plans under contract with the alliance which meet the requirements set forth in Section 72 of this Act, and enrolling alliance members in the health benefit plan of the member's choice;

(4) Requesting proposals for the offering to alliance members of standard benefit plans, as defined by the board, pursuant to Section 80 of this Act, from all accountable health plans in the area served by the alliance in a format to be determined by the alliance. At least one (1) standard benefit plan shall have coverage for alliance members which is exactly the same as the coverage provided under Kentucky Kare Standard as of January 1, 1994. The alliance shall aggressively negotiate contracts and select accountable health plans to offer to members that best meet cost, quality, access, and service objectives, as determined by the alliance;

(5) Requesting proposals from all accountable health plans in the area served by the alliance for supplemental benefit plans approved by the board, determining if the proposals submitted by the accountable health plans meet the requirements of the request for proposals, and offering them as options through riders to the standard benefit plan;

(6) Distributing to health care purchasers retail price data on prescription drugs and their generic equivalents, durable medical equipment, and disposable medical supplies;

(7) Establishing administrative and accounting procedures for the operation of the alliance and members' services, preparing an annual budget for the alliance, and preparing an annual report on alliance operations for submission to the board;

(8) Developing and implementing a marketing and public information plan to publicize the alliance to potential members;

(9) Developing grievance procedures to be used in resolving disputes between alliance members and the health purchasing alliance and disputes between the accountable health plans and the health purchasing alliance. Any member of the alliance or accountable health plan that serves the alliance may appeal to the board any grievance that is not resolved by the alliance;

(10) Maintaining all records, reports, or other information required by the board or state law;

(11) Receiving and accepting grants, loans, advances, contributions, or funds from any public or private agency that are necessary for the operation of the alliance;

(12) Contracting with a qualified, independent third party, subject to approval of the board, for any service necessary to carry out the duties of the alliance;

(13) Developing a plan to facilitate participation of health care providers in accountable health plans in the area served by the alliance, with emphasis on participation by physicians in medically underserved areas;

(14) Ensuring that any accountable health plan that has a market share of fifteen percent (15%) or greater within the Commonwealth is offered to members of the alliance;

(15) Collecting premiums on behalf of participating accountable health plans, including the remittance of the share of the group premium paid by both an employer and an employee. The alliance shall pay participating accountable health plans their contracting premium amounts on a prepaid monthly basis, or as otherwise mutually agreed upon;

(16) Setting reasonable fees, of one and one-half percent (1.5%), which upon approval of the board may be increased to a maximum of three percent (3%), of annual premiums for health benefit plans offered by the alliance, which shall finance all reasonable and necessary costs incurred in administering the alliance. Imposition of fees shall be subject to the approval of the board;

(17) Administering a risk adjustment process established by the Kentucky Health Policy Board pursuant to Section 77 of this Act if so directed by the board, but only as to accountable health plans participating in the alliance; and

(18) Ensuring that each alliance member always has a choice of one (1) fee-for-service plan.

SECTION 69. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The alliance shall establish conditions of participation in the alliance for employers which shall include:

(a) Assurance that the group is a valid employer. This assurance shall include requirements for sole proprietors and self-employed individuals relating to the length of time the sole proprietor or self-employed individual has been in business, documentation to verify employment status, and any other requirements to ensure that the individual is working;

(b) Assurance that the individuals in the employer group are employees and have not been added for the purpose of securing health benefit coverage;

(c) Assurance that an employer that lays off or terminates the employment of an employee allows the employee, at the employee's expense, the opportunity to continue coverage with any health benefit plan with which the employee was enrolled at the time of the layoff or termination of employment. The employee shall not be required to pay a premium that exceeds the amount charged to the employer or other employees; and

(d) Assurance that any employee who voluntarily terminates employment with an employer shall be permitted to continue to participate, at the employee's expense, in any health benefit plan with which the employee was enrolled at the effective date of the voluntary termination. The employee shall not be required to pay a premium that exceeds the amount charged to the employer or other employees.

(2) The alliance may require an employer seeking membership to agree to participate in the alliance for a specified minimum period of time, not to exceed one (1) year.

(3) The alliance shall not require an employer to pay any portion of premiums as a condition of participation in the alliance.

(4) Except as provided in subsection (5) of this section, if an employer who is a member of the alliance offers more than one (1) health benefit plan and the employer contributes to the coverage of employees or dependents of the employee, the alliance shall require that the employer contribute the same dollar amount for each employee, regardless of the health benefit plan chosen by the employee.

(5) If an employer, required by subsection (4) of this section to contribute the same dollar amount for coverage of each employee, employs part-time employees, the employer may proportionately reduce the dollar amount paid for coverage for part-time employees based on the difference between full-time employee hours and part-time employee hours.

(6) For a minimum of one (1) year after January 1, 1995, an employer that seeks to participate in the alliance shall be allowed to keep the same coverage that the employer offered to its employees immediately prior to becoming a member of the alliance.

SECTION 70. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The Kentucky Health Policy Board created by Section 2 of this Act shall have the following duties with respect to the alliance:

(1) Initially and thereafter annually certifying that the alliance complies with the provisions of Sections 66 to 72 of this Act. The board may decertify the alliance if it determines the alliance fails to comply with the provisions of Sections 66 to 72 of this Act and the administrative regulations adopted by the board pursuant to KRS Chapter 13A. Thereafter, a single new health purchasing alliance may be established in accordance with the procedures under Section 67 of this Act;

(2) Providing administrative startup funds through a loan or grant to the alliance.

(3) Conducting any annual review of the performance of the alliance to ensure the alliance is in compliance with Sections 66 to 72 of this Act. The alliance shall submit data to the board to assist in this review, including:

  (a) Employer enrollment by employer size, industry sector, and previous insurance status;

  (b) Number of total eligible employers in the area served by the alliance and the number participating in the alliance;

  (c) Premium ranges for each accountable health plan for alliance member categories;

  (d) Type and resolution of member grievances;

  (e) Membership fees collected by the alliance; and

  (f) Alliance financial statements.

(4) Establishing a data system to be utilized by accountable health plans including data elements to be filed with the alliance.

SECTION 71. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In addition to the other duties described in Sections 66 to 72 of this Act, the Kentucky Health Policy Board shall supervise the alliance to ensure that actions that affect market competition are not for private interest, so as to provide the alliance and its board members with protection against violating antitrust laws.

SECTION 72. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An accountable health plan may be created by health care providers, or health maintenance organizations, or health insurers for the purpose of providing health care services to alliance members.

(2) Each accountable health plan that seeks to offer services to members of the alliance shall first be certified by the alliance. The alliance shall adopt administrative regulations pursuant to KRS Chapter 13A, in consultation with the Kentucky Health Policy Board, for certification of accountable health plans. To qualify as an accountable health plan, an applicant shall submit information acceptable to the alliance to satisfactorily demonstrate that the plan:

  (a) Is licensed and in good standing with the licensure boards for participating providers;

  (b) Has demonstrated the capacity to administer the health plans it is offering;

  (c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

  (d) Has the ability, policies, and procedures to conduct utilization management activities;

  (e) Has the ability to achieve, monitor, and evaluate the quality and cost effectiveness of care provided by its provider network;

  (f) Is financially solvent;

(g) Has the ability to assure enrollees adequate access to providers, including geographic availability and adequate numbers and types;

(h) Has the ability and procedures to monitor access to its provider network;

(i) Has a satisfactory grievance procedure and the ability to respond to enrollee's inquires and complaints;

(j) Has the ability to recruit and retain health care providers in medically underserved areas;

(k) Does not limit the participation of any health care provider in its provider network in another accountable health plan;

(l) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting;

(m) Does not discriminate in enrolling members;

(n) Charges uniform premiums for standard benefit plans;

(o) Participates in coordination of benefits;

(p) Uses standardized electronic claims and billing processes and formats;

(q) Discloses to the alliance reimbursement arrangements with providers; and

(r) Assures that all services covered by the accountable health plan are available to all persons enrolled in the plan within thirty (30) miles of each person's place of residence.

(3) The alliance shall establish a certification fee to be paid by each accountable health plan to cover the cost in performing the certification review.

(4) An accountable health plan shall require all providers participating in the plan to report to the Kentucky Health Policy Board specified data which can be used in determining medical outcomes in accordance with standards approved by the board and shall comply with all provisions of this subtitle.

(5) A provider may participate in more than one (1) accountable health plan.

PART 10

INSURANCE REFORMS

SECTION 73. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 73 to 80 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky Health Policy Board created by Section 2 of this Act.

(2) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq., as amended.

(3) "Guaranteed-issue basis" means that no applicant for insurance can be turned down except for nonpayment of premiums.

(4) (a) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard health benefit plan as established in Section 80 of this Act.

(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance and individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994.

(c) "Health benefit plan" means a health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.

(5) "Insurer" means a person who provides health benefit plans in this state and is subject to insurance regulation in this state, including an authorized insurance company, health maintenance organization, self-insurer or multiple welfare arrangement not exempt from state regulation by ERISA, accountable health plans as defined in Section 66 of this Act, and nonprofit hospital, medical-surgical, dental, and health service corporation.

SECTION 74. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All health benefit plans issued or renewed on or after July 15, 1995, shall comply with the following provisions:

(1) All health benefit plans shall be renewable with respect to all eligible persons and dependents at the option of the policyholder or contract holder, except:

(a) For nonpayment of the required premiums by the policyholder or contract holder;

(b) For fraud or misrepresentation of the policyholder or contract holder;

(c) For noncompliance with health benefit plan provisions;

(d) If the insurer ceases doing business in Kentucky and notice of the decision to cease to do business in Kentucky is provided to the Kentucky Health Policy Board, the department, and to either the policyholder or contract holder. Health benefit plans shall not be canceled by the insurer for one (1) year after the date of the notice required under this paragraph unless the business has been sold to another insurer. An insurer that ceases to do business in Kentucky shall not reenter Kentucky for a period of five (5) years from the date of the notice required under this paragraph.

(2) (a) Pre-existing conditions provisions shall not exclude or limit coverage for a period beyond six (6) months following the individual's effective date of coverage and may only relate to conditions which had, during the six (6) months immediately preceding the effective date of coverage, manifested themselves in a manner that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received or as to a pregnancy existing on the effective date of coverage;

(b) In determining whether a pre-existing conditions provision applies to a person covered under a plan, all health benefit plans shall credit the time the person was covered under a previous health benefit plan provided by an insurer, including Medicaid and Medicare, if the previous coverage was continuous to a date not more than sixty (60) days prior to the effective date of the new coverage.

(3) Health care benefit plans shall not discriminate against any class of health care provider in their coverage of services.

SECTION 75. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter to the contrary:

(a) Each insurer maintaining policies or contracts under this chapter on February 1, 1994, shall, by September 1, 1994, file with the Kentucky Health Policy Board its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers in effect on February 1, 1994.

(b) Each insurer that issues, delivers, or renews any policy or contract after October 1, 1994, shall, before use thereof, file with the Kentucky Health Policy Board its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the Kentucky Health Policy Board. The insurer may submit new filings from time to time as it deems proper, except as provided in paragraph (d) of this subsection.

(c) Each insurer that issues, delivers, or renews any standard health benefit plan under Section 80 of this Act shall, before use thereof, file with the Kentucky Health Policy Board its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the Kentucky Health Policy Board. The insurer may submit new filings from time to time as it deems proper, except as provided in paragraph (d) of this subsection.

(d) No insurer shall increase rates to any group or individual policyholder, contract holder, subscriber, member, or enrollee until at least twelve (12) months have elapsed following the effective date of that group's or individual's last rate increase, except for a change in benefit plan design or in the composition of the group, which change causes an actuarially justified rate increase during the applicable twelve (12) month period.

(2) (a) No filing proposing to increase rates, fees, dues, and other charges under paragraph (b) or (c) of subsection (1) of this section shall become effective until the Kentucky Health Policy Board, created by Section 2 of this Act, has issued an order approving the filing within thirty (30) days after receiving the filing. At the expiration of the thirty (30) day period, the filing shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Kentucky Health Policy Board or a hearing has been held. The Kentucky Health Policy Board may hold a hearing within thirty (30) days after receiving a filing under this subtitle and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(b) In approving or disapproving a filing under paragraph (a) of this subsection, the Kentucky Health Policy shall consider:

1. Whether the benefits provided are reasonable in relation to the premium or fee charged;

2. Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

3. Previous premium rates or fees for the policies or contracts to which the filing applies;

4. The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

5. Whether discounts given to providers are reflected in the premium or fee; and

6. Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory.

(c) Not less than ten (10) days in advance of a hearing held under paragraph (a) of this subsection, the Kentucky Health Policy Board shall notify the Attorney General in writing of the hearing. The Attorney General shall be considered a party to the hearing if the Attorney General chooses to participate.

(d) No insurer receiving the Kentucky Health Policy Board's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase, except that, prior to July 15, 1995, an insurer that has been regularly increasing rates or fees for any policies or contracts on a six (6) month basis shall not submit a new filing containing a rate or fee increase for those policies or contracts until at least six (6) months have elapsed following the effective date of the approved increase. After July 15, 1995, no insurer shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase.

(e) At any time, the Kentucky Health Policy Board, after a public hearing of which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund to policyholders, enrollees, and subscribers if the board determines that the benefits are no longer reasonable in relation to the premium or fee charged.

(3) The Kentucky Health Policy Board may by administrative regulation prescribe any additional information it deems relevant to be included in the filings and the form of the filings required by this section.

(4) As a condition of doing business in Kentucky, each insurer as defined in Section 73 of this Act shall comply with the provisions of this section.

SECTION 76. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For all health benefit plans issued or renewed on or after July 15, 1995, to employers with one hundred (100) employees or less, individuals, and participants in the Kentucky Health Purchasing Alliance, insurers shall use a modified community rating methodology filed with the Kentucky Health Policy Board in which the premium for each individual policy and group policy is determined solely on the basis of age, geography, family composition, benefit plan design and cost containment provisions, whether or not the product is offered through an alliance, and limited discounts for healthy lifestyles. Community rates may be established separately for employer groups, individuals, public employees, and medicaid enrollees within and outside the Kentucky Health Purchasing Alliance, as applicable.

(2) Premium variations based on age shall not vary more than three hundred percent (300%) from the lowest to the highest price.

(3) The Kentucky Health Policy Board shall establish guidelines for geographic rating areas that take into consideration the following:

(a) Geographic rating should not be used to prevent areas with lower cost, more efficient delivery systems from cross-subsidizing areas where health benefit plans and providers operate inefficiently;

(b) Geographic rating shall not increase rates of higher risk and needier populations relative to healthier and wealthier populations, nor to effectively discriminate on the basis of race or socioeconomic class;

(c) Geographic rating areas may include entire communities and single metropolitan statistical areas but shall not fold lower cost and lower income rural areas into the same rating areas as higher cost urban areas.

(4) The rate structure shall differentiate between single individuals, couples, single-parent families, and two-parent families with children.

SECTION 77. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board shall promulgate administrative regulations for the establishment of a risk adjustment process to be used in equalizing risk between insurers which participate within and outside of the Kentucky Health Purchasing Alliance.

(2) The risk adjustment process shall at minimum be based on gender, retiree status, continuation status, and medical condition information which represent the relative risk of individuals participating with various insurers. The risk adjustment process is not intended to, and shall not, neutralize cost variations among insurers based on efficiency, ability to manage health costs and patient care, and the administration of policy provisions. The process shall not base adjustment for insurers on their individual premiums, administrative expenses, claims, or use of health care

services. Preset amounts shall be established to reflect the demographic and medical risk characteristics of individuals enrolled by insurers.

(3) The risk adjustment process shall be administered by the board so that the process can be applied on a marketwide basis. All insurers shall submit information designated by the board as necessary to administer the risk adjustment process. All insurers shall contribute on an annual basis a preset amount for each person covered toward the establishment and administration of the risk adjustment process. Insurers shall receive from, or contribute amounts to, the board based on the insurer's relative risk profile as determined by the risk adjustment process.

(4) The risk adjustment process shall be established by no later than April 1, 1995. The board may authorize one (1) or more pilot projects as part of an ongoing reevaluation and refinement of the risk adjustment process.

SECTION 78. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All health benefit plans issued or renewed on or after July 15, 1995, which provide coverage for a family member of the insured shall provide that the health plan benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 79. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer as defined in Section 73 of this Act, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

SECTION 80. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board shall define no more than five (5) standard health benefit plans, one (1) of which shall be a basic benefit plan and one (1) of which shall provide coverage exactly comparable to the coverage provided under Kentucky Kare Standard as of January 1, 1994. The board may define a limited number of supplemental health benefit plans. The board shall submit the plans to the commissioner no later than February 1, 1995. The commissioner shall review the plans and return them with written comments to the board within thirty (30) days of receipt. After consideration of the commissioner's comments, the board shall give final approval to the standard health benefit plans no later than April 1, 1995, and the plans shall become operational on July 15, 1995.

(2) Notwithstanding any other provision of this chapter to the contrary, on and after July 15, 1995:

(a) No insurer doing business in Kentucky shall issue or renew health benefit plans other than the standard health benefit plans established by the board, and any of the standard health benefit plans offered shall be offered on a guaranteed-issue basis;

(b) Every insurer shall, as a condition of transacting business in this state, offer and issue the basic health benefit plan on a guaranteed-issue basis;

(c) Each insurer that offers any standard health benefit plan may only offer supplemental benefit plans established by the board to persons it insures under a standard health benefit plan and the offer of supplemental plans shall be on a guaranteed-issue basis;

(d) An insurer may elect to offer health benefit plans only to individuals and groups that purchase coverage through the Kentucky Health Purchasing Alliance and not offer coverage to individuals and groups that purchase coverage outside the alliance; and

(e) No insurer shall exclude any eligible person or dependent, who would otherwise be covered under a group

health benefit plan, on the basis of an actual or expected health condition of the person.

(3) Each of the standard health benefit plans shall be in two (2) forms, one (1) of which shall be in the form of insurance and the second of which shall be consistent with the basic method of operation and benefit plans of health maintenance organizations, including federally qualified health maintenance organizations. Each of the standard plans shall provide for two (2) levels of cost sharing. The board shall take into consideration the levels of benefits provided in health benefit plans in Kentucky and appropriate medical and economic factors. The plans shall include cost containment features, such as utilization review of health care services, including review of medical necessity of hospital and physician services; case management benefit alternatives; selective contracting with hospitals, physicians, and other health care providers; reasonable benefit differentials applicable to participating and nonparticipating providers; and other managed care provisions. If a standard health benefit plan issued by an insurer covers services which the plan's beneficiaries lawfully obtain from health departments established pursuant to KRS Chapter 212 in medically-underserved areas designated by the Kentucky Health Policy Board, that insurer shall pay the plan's established rate for those services to the health department.

(4) All policies and contracts providing health care benefits issued or renewed on or after July 15, 1995, shall be uniform in structure, language, designation, and format to the standard benefit plans defined by the board and shall be filed with and approved by the board before being delivered or issued for delivery in Kentucky.

(5) The board shall inform residents of Kentucky of the existence and provisions of the standard benefit plans. The board shall develop an outline and chart of coverage that describes the features of each of the standard benefit plans available in Kentucky. The board shall broadly publicize a twenty-four hour toll-free telephone number for information on health care benefit plans available in Kentucky.

(6) The commissioner and the department shall render assistance on approval of plans and any other insurance matter as requested by the board.

(7) Any insurer that between the effective date of this Act and July 15, 1995, knowingly and willfully terminates coverage of any insured or dependent solely because the insured is eligible for coverage through a health purchasing alliance shall be prohibited from issuing or delivering any health benefit plan in the Commonwealth for a period of five (5) years from the date of exclusion.

SECTION 81. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) On and after July 15, 1995, no health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, until a copy of that form has been filed with and approved by the Kentucky Health Policy Board created pursuant to Section 2 of this Act. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

(2) At the expiration of thirty (30) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the board, or a hearing has been scheduled by order of the board. In the event that a hearing is held, the thirty (30) day waiting period shall begin anew after the close of such hearing. Approval of any such form by the board shall constitute a waiver of any unexpired portion of such waiting period. The board may extend by not more than an additional thirty (30) day period within which the board may affirmatively approve or disapprove any such form by giving notice to the insurer of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The board may at any time withdraw any such approval.

SECTION 82. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) On and after July 15, 1995, no corporation subject to the provisions of this subtitle shall deliver or issue for delivery in this state any subscription certificate or membership certificate describing health benefits available, or any indorsement, rider, or application which becomes a part thereof, until a copy of such form has been filed with and approved by the Kentucky Health Policy Board created pursuant to Section 2 of this Act.

(2) At the expiration of thirty (30) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the board, or a hearing has been scheduled by order of the board. In the event that a hearing is held, the thirty (30) day waiting period shall begin anew after the close of such

hearing. Approval of any such form by the board shall constitute a waiver of any unexpired portion of such waiting period. The board may extend by not more than an additional thirty (30) day period within which the board may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The board may at any time withdraw any such approval. Any notice of the board withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonable to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at the expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the board shall in such notice prescribe.

(3) The board's order disapproving any form or withdrawing previous approval shall state the grounds for disapproval or withdrawal.

(4) The board may, by order, exempt from the requirements of this section for so long as the board deems proper, any document or form specified in the order, to which in the board's opinion this section may not practicably be applied, or the filing and approval of which are, in the board's opinion, not desirable or necessary for the protection of the public.

Section 83. KRS 304.32-160 is amended to read as follows:

(1) On or after June 18, 1970, no corporation subject to the provisions of this subtitle shall deliver or issue for delivery in this state any subscription certificate or membership certificate describing health benefits available, or any indorsement, rider, or application which becomes a part thereof, ~~[for the schedule of rates, dues, fees, or other periodic charges, to be paid by subscribers or members,]~~ until a copy of such form has been filed with and approved by the commissioner.

(2) At the expiration of thirty (30) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the thirty (30) day waiting period shall begin anew after the close of such hearing. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time withdraw any such approval. Any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonable to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at the expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(3) The commissioner's order disapproving any form or withdrawing previous approval shall state the grounds for disapproval or withdrawal.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper, any document or form specified in the order, to which in his opinion this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) After July 14, 1995, KRS 304.32-160 shall become null and void.

Section 84. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope of Code;

(2) Subtitle 2 -- The Insurance Commissioner;

(3) Subtitle 7 -- Investments;

(4) Subtitle 8 -- Administration of Deposits;

(5) Subtitle 12 -- Trade Practices and Frauds;

(6) Subtitle 25 -- Continuity of Management;

(7) Subtitle 33 -- Rehabilitation and Liquidation;

(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;

(9) Subtitle 4 -- Fees and Taxes;

(10) Subtitle 99 -- Penalties; ~~[and]~~

(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560***; and***

(12) Subtitle 17A-Health Insurance.

Section 85. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, [~~or the schedule of fees or other periodic charges to be paid by enrollees,~~] until a copy of such form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of (a) the health care services to which the enrollee is entitled; (b) any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature; (c) where and in what manner information is available as to how services may be obtained; and (d) any other provisions pertaining to the delivery of health care services. [~~Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that such charges or fees are not excessive, inadequate, or unfairly discriminatory.~~]

(2) At the expiration of thirty (30) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the thirty (30) day waiting period shall begin anew after the close of such hearing. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove any such form by giving notice to the insurer of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time withdraw any such approval.

(3) After July 14, 1995, this section shall become null and void.

Section 86. KRS 304.38-130 is amended to read as follows:

(1) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this Subtitle if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under KRS 304.38-040, unless amendments to such submissions have been filed with and approved by the commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of KRS 304.38-050 *and Section 75 of this Act*;

(c) The health maintenance organization does not provide or arrange for health care services as approved by the commissioner in KRS 304.38-050(1)(a);

(d) The certificate of need and licensure board certifies to the commissioner that the health maintenance organization fails to meet the requirements of the board or that the health maintenance organization is unable to fulfill its obligations to furnish health care services;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

(g) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(h) The health maintenance organization has otherwise failed to substantially comply with this subtitle.

(2) A certificate of authority shall be suspended or revoked only after compliance with the hearing procedures set out in Subtitle 2.

(3) When the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of such suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(4) When the certificate of authority of a health maintenance organization is revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of such organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage. If the commissioner permits such further operation the health maintenance organization will continue to collect the periodic prepayments required of enrollees.

Section 87. KRS 304.17-060 is amended to read as follows:

There shall be a provision as follows:

"Time Limit on Certain Defenses: [~~(a)~~] After three (3) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three (3) year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three (3) year period, nor to limit the application of KRS 304.17-190 to 304.17-230, inclusive, in the event of misstatement with respect to age or occupation or other insurance.)

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age fifty (50) or (b) in the case of a policy issued after age forty-four (44) for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable":

"After the policy has been in force for a period of three (3) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application."

~~[(b) No claim for loss incurred or disability (as defined in the policy) commencing after two (2) years from the date of issue of this policy, shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.]~~

Section 88. KRS 304.17-270 is amended to read as follows:

~~[Except as provided in KRS 304.17-275,]~~ Health insurance policies, other than accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide in substance in a provision thereof or in an indorsement thereon or rider attached thereto that subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on, or after and nearest, each policy anniversary (or in the case of lapse and reinstatement, at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement), and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. (The parenthetic reference to lapse and reinstatement may be omitted at the insurer's option.)

Section 89. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***standard health care benefit plans established under Section 80 of this Act, or to*** surety bonds, or to specially rated inland marine risks, or to policies, riders, indorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 90. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) [~~As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.~~

~~(e)~~] If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 91. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of Chapter 304, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 – Scope of Code;
(2) Subtitle 2 – The Insurance Commissioner;
(3) Subtitle 4 – Fees and Taxes;
(4) Subtitle 5 – Kinds of Insurance; Limits of Risk; Reinsurance;
(5) Subtitle 12 – Trade Practices and Frauds;
(6) Subtitle 14 – KRS 304.14-500 to 304.14-560;
(7) *Subtitle 17A–Health Insurance;*
(8) Subtitle 25 – Continuity of Management;
(9)[~~(8)~~] Subtitle 33 – Rehabilitation and Liquidation; and
(10)[~~(9)~~] Subtitle 99 – Penalties.

PART 11

MEDICAL EDUCATION REFORM

SECTION 92. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Health Service at the University of Kentucky and the University of Louisville respectively. With respect to medicine and membership in the Kentucky Health Service, "primary care physicians" are as defined in KRS 164.925 and includes others that may be designated by the Kentucky Health Policy Board as shortage medical disciplines in Kentucky. The appropriate health sciences center official designated by the board of trustees of each institution shall direct the Kentucky Health Service. The Kentucky Health Service shall, at each institution:

(a) Create and oversee the implementation of regional family practice residency training programs in community-based sites, coordinated so that the number of first year post-graduate positions in family practice is comparable to the number of graduates entering family practice; and

(b) In conjunction with the Kentucky Health Policy Board, develop contracts setting forth the amount and nature of stipends and fees, subject to appropriated funds, to be provided by the service to medical students or residents participating in the Kentucky Health Service and the binding obligation of the student or resident entering into the contract, including requiring each student or resident to sign a binding contract obligating the student to practice primary care medicine in Kentucky for one (1) year for each year of participation in the service.

(2) The Kentucky Higher Education Assistance Authority shall enforce contractual obligations for students participating in the Kentucky Health Service, including the one (1) year primary care practice obligation for each year of Kentucky Health Service participation. Any participant who fails to fulfill this obligation shall be immediately required to repay the service for the full cost of education, stipend, salary, or other benefits paid by the service to the participant. The cost of education shall include all costs as determined by the respective institution from time to time, including that portion in excess of tuition and fees. In addition, the participant shall pay all legal or collection costs incurred by the institution in connection with enforcement of the contract. The only offset allowed shall be for tuition and fees actually paid by the participant. All moneys collected from students shall be paid into the Kentucky Health Service.

(3) The Kentucky Health Policy Board as created by Section 2 of this Act shall periodically establish goals for the medical schools based upon the professional medical needs of the Commonwealth. In admitting students to medical

school, preference shall be given to students deemed by the admissions committees to be most likely to make a commitment to practice primary care in Kentucky. The students shall meet the academic and related standards for admission to medical school. The service shall provide tuition, fees, and stipends, as appropriate to medical students and residents, subject to appropriated funds, to cover all medical students participating in the Kentucky Health Service. Subject to the availability of funds, the stipend shall annually increase at the rate of increase in the consumer price index (CPI-U) of the United States Department of Commerce or its successor.

(4) The University of Kentucky and the University of Louisville shall cooperate in the operation of at least six (6) community-based family practice residency programs without further expansion of the Louisville and Lexington based programs until the other programs are established. There shall be at least one (1) of these programs in each Congressional district of the Commonwealth.

(5) All universities and community-based education programs shall be linked together via a single uniform telecommunications system by July 1, 1995.

(6) The Kentucky Health Service at each institution shall increase the number of family practice residency positions from their current level to a level sufficient to accommodate the medical students who are in the family practice track of the service. All additional positions shall be established at the community-based sites.

(7) By September 1, 1994, all students entering medical school and all residents participating in the Kentucky Health Service shall participate in community-based training to the extent allowed by appropriate national accrediting boards.

(8) The University of Kentucky and University of Louisville shall increase the training of general pediatric, general internal medicine, and combined medicine/pediatric resident positions in community-based sites to the extent allowed by appropriate national accrediting boards. The University of Louisville and University of Kentucky colleges of medicine shall enter into contracts with all volunteer and community-based faculty that assist in training medical students. The contracts shall include performance standards and compensation for the faculty members as determined by the universities.

(9) Nonprimary-care residency programs at the University of Kentucky and the University of Louisville shall be capped at the 1994 level, and sufficient accredited primary care residency positions shall be created to accommodate the number of service participants who graduate each year.

(10) The University of Kentucky and the University of Louisville shall enhance library communications with practitioners throughout the state and with community-based educational sites and shall expand the continuing education capabilities at these sites.

(11) Beginning September 1, 1995, the Council on Higher Education shall provide biennial progress reports to the board and General Assembly. The reports shall include the following:

- *(a) The progress made by the institutions of higher education toward meeting the requirements set forth in Sections 92 to 94 of this Act;*
- *(b) The extent to which health professions education courses offered by the public institutions of higher education in Kentucky are uniform and transferable among institutions;*
- *(c) The total expenditures of all public institutions of higher education as relates to health professions education; and*
- *(d) Recommendations as to funding, allocation, or other matters relating to health professions education.*

In carrying out this responsibility, the Council on Higher Education may require from the institutions any reports, data, and information it deems necessary and appropriate to meet the requirements of this section.

(12) The University of Kentucky and the University of Louisville shall request the federal Health Care Financing Administration to permit all graduate and resident medical education funds paid under Title 18 of the Social Security Act be allocated to the deans of the medical school at each institution to fund the regional residency programs established pursuant to this section.

(13) All funds appropriated for off-campus educational experience for medical students and residents outside of Fayette and Jefferson Counties and all funds appropriated for Area Health Education Centers and the Area Health Education System shall be transferred to the Kentucky Health Service at the University of Kentucky and University of Louisville.

SECTION 93. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board as created by Section 2 of this Act, in cooperation with the Council on Higher Education in Kentucky, shall develop a comprehensive minority health professions education program providing for:

- *(a) The recruitment of minority students to attend the University of Kentucky, the University of Louisville, or other state institutions of higher education where appropriate for training in medicine, dentistry, nursing, pharmacy, physical therapy, and other allied professions;*

(b) The payment of stipends, scholarships, and other financial assistance needed by minority students in medicine, dentistry, nursing, pharmacy, physical therapy, and other allied health professions; and

(c) The payment of financial or other incentives to encourage minority graduates in medicine, dentistry, nursing, pharmacy, physical therapy, and other allied health professions to establish a practice in underserved areas as defined by the Kentucky Health Policy Board.

(2) The Kentucky Higher Education Assistance Authority shall enforce contractual obligations for minority health professions education students receiving financial assistance under this section, using guidelines no less stringent than those provided under Section 92 of this Act.

(3) The Kentucky Health Policy Board shall prepare a biennial report to the General Assembly which documents:

(a) The number of minority students enrolled as a result of the program established pursuant to this section;

(b) The number of minority students who successfully graduate in medicine, dentistry, nursing, pharmacy, physical therapy, and other allied health professions schools; and

(c) Recommendations for improving the recruitment of minority students in medicine, dentistry, nursing, physical therapy, and other allied health professions.

SECTION 94. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Policy Board shall periodically review health professions' manpower needs by service delivery region in cooperation with the Council on Higher Education in Kentucky.

(2) The Kentucky Health Policy Board shall designate health professions shortages by service delivery region for use by institutions of higher education and the Council on Higher Education in Kentucky.

(3) The Kentucky Health Policy Board shall biennially prepare a report identifying the special health needs of the minority population in the Commonwealth as compared to the population at large. The report shall be completed no later than October 1 of each odd-numbered year and transmitted to the Legislative Research Commission. The report shall, at a minimum:

(a) Contain an overview of the health status of minority Kentuckians;

(b) Identify the many specific diseases experienced at disproportionate rates within the minority population and the reasons therefor, and explore the reasons the minority population is at greater risk than the general population for these diseases, and the reasons the minority population experiences higher rates of morbidity and mortality;

(c) Identify problems experienced by the minority population in obtaining health services from health care providers and governmental agencies; and

(d) Identify programs at the state and local level designed specifically to meet the health needs of the minority population.

(4) In preparing the report required by subsection (3) of this section, the Kentucky Health Policy Board shall solicit and consider the input of individuals and organizations representing the concerns of the minority population as relates to:

(a) Health programs and services needed by the minority population;

(b) The extent to which existing health programs do not meet the needs of the minority population;

(c) The accessibility of existing health programs to the minority population;

(d) The availability and adequacy of information regarding existing health services;

(e) Health problems the minority experience at a higher rate than the general population; and

(f) Financial, social, and other barriers experienced by the minority population in obtaining health services.

(5) In administering, regulating, and funding all aspects of the health care system, the Kentucky Health Policy Board shall assure that health services provided by the Commonwealth are designed to meet and address the needs of the minority population as identified pursuant to subsections (3) and (4) of this section.

(6) The Kentucky Health Policy Board shall prepare a plan for the cross-disciplinary training of health care professionals. The plan shall address cross-training of clinical laboratory and radiology technicians and the cross-training of physical and occupational therapists and shall assure that all courses offered articulate among the colleges and universities offering training. The plan, together with the Kentucky Health Policy Board's recommendations, shall be presented to the Council on Higher Education by January 1, 1996.

(7) The Council on Higher Education in Kentucky shall authorize regional physician extender training programs to assure that at least one hundred sixty (160) physician extenders shall be graduated each year. The council shall employ a request-for-proposal process in the development of the regional physician extender training programs. The process shall include a strong emphasis on community experience for program participants and monitoring of the service obligations of the graduates.

(8) Physician extender training programs shall be expanded at a minimum of five (5) additional sites and new programs shall be established so that at least one hundred sixty (160) students can be annually graduated as advanced registered nurse practitioners, advanced registered nurse practitioner-nurse midwives, and physician assistants. When feasible, physician extender students shall be trained along with family practice residents in the community-based training programs. Proposals shall be solicited from all public colleges or universities in the Commonwealth.

(9) New regional physician extender training sites shall be established as follows:

- *(a) Two (2) by September, 1995;*
- *(b) Two (2) by September, 1996; and*
- *(c) The remainder as expeditiously as appropriations become available.*

(10) Physician extender training programs shall participate in the statewide telecommunications network required by subsection (5) of Section 92 of this Act.

(11) To the maximum extent possible, all physician extender courses, medical school courses, and residency training activities shall be provided in team settings.

(12) In admitting applicants to physician extender programs, preference shall be given to those deemed most likely by the admissions committees to make a commitment to practice primary care in Kentucky. The students enrolled in each physician extender program shall be eligible to participate in the Kentucky Health Service under Section 92 of this Act and shall be eligible for funding equal to tuition, fees, and stipends if they contract to practice primary care in Kentucky after graduation for one (1) year for every year of training.

(13) Upon receipt of an application, the Kentucky Health Policy Board may designate as a generalist physician, any physician who has a practice open to any patient, including:

- *(a) A general or family practitioner;*
- *(b) An internist who agrees to treat a patient presenting with any medical problem;*
- *(c) A pediatrician who agrees to treat a child eighteen (18) years of age or younger presenting with any medical problem; and*
- *(d) Any other specialist as determined by the Kentucky Health Policy Board who agrees to treat any patient presenting with any medical problem.*

(14) Any physician designated as a generalist by the Kentucky Health Policy Board who refuses to treat any patient presenting a medical problem shall be subject to disciplinary action pursuant to KRS 311.595, and shall be required to pay to the Kentucky Health Policy Board, with interest, all additional reimbursement received by the physician as a result of the generalist designation.

(15) The Kentucky Health Policy Board, in conjunction with the University of Kentucky and University of Louisville medical schools, shall develop an underserved-area physician respite program.

(16) The Kentucky Health Policy Board shall recommend fees for office visits by family practice and generalist physicians designated by the Kentucky Health Policy Board, at levels that shall provide substantial additional financial incentives for physicians to practice as family practice or generalist physicians rather than specialists.

SECTION 95. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Each public institution of higher education including each community college and each licensed independent institution, receiving state tuition assistance for its students, including each community college, shall develop a healthy life-styles program at a charge which covers program expenses.

PART 12

MEDICAL ASSISTANCE

SECTION 96. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall establish a system within the Medical Assistance Program to reduce unnecessary hospital emergency room utilization and costs by redefining and controlling hospital emergency utilization. The cabinet shall establish by promulgation of administrative regulations, pursuant to KRS Chapter 13A, the following:

(1) Criteria and procedures, at least annually updated, that differentiate children and adults, and which conform to the federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. 1395dd) as amended, and any other applicable federal law or regulation for determining if a medical emergency exists;

(2) Reimbursement rates that provide for nominal reimbursement of emergency room care for care that does not meet the criteria established for a medical emergency;

(3) Reimbursement, at rates determined by the cabinet, for ancillary services which, based upon the symptoms of the patient, are medically appropriate to determine if a medical emergency exists;

(4) Except for emergency room services rendered to children under the age of six (6), prohibition of reimbursement at hospital emergency room rates for diagnosis and treatment for a condition that does not meet the criteria established

for a medical emergency; and

(5) The provisions of this section shall apply to any managed care program for medicaid recipients.

The cabinet or its designated peer review organization shall review all claims for payment of nonemergency hospital care and deny payment for any ancillary services determined as not medically appropriate.

SECTION 97. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall institute nominal copayments or similar charges to be paid by medical assistance recipients, their spouses, or parents, within the limitations of federal law and regulation.

(2) Copayments or similar charges shall not be imposed for the following services:

  (a) All services provided to children under eighteen (18) years of age;

  (b) All optional services provided to children under twenty-one (21) years of age;

  (c) All services furnished to pregnant women;

  (d) Emergency services including hospital, clinic, office, or other facility services which are necessary to prevent the death or serious impairment of the individual;

  (e) Services furnished to institutionalized individuals if the individual is required, as a condition of receiving services, to spend all but a minimal amount of income for personal needs;

  (f) Prescriptions for maintenance pharmaceuticals; and

  (g) Other services excluded from cost sharing by federal law or regulation.

(3) Prepaid health plan programs, such as health maintenance organizations and health insuring organizations under contract with the cabinet to provide services to medical assistance recipients, shall not be subject to the requirements of this section.

(4) Standard nominal copayments per service, not to exceed amounts allowed under 42 C.F.R. Chapter IV, as amended, shall be collected by the provider and charged for the following services:

  (a) Ambulance services which are provided to recipients in need of nonemergency health transportation services; and

  (b) Nonemergency services delivered in a hospital emergency room.

(5) Notwithstanding subsection (4) of this section, the cabinet shall request all necessary waivers from federal regulations to require a minimum three dollar ($3) copayment for services identified in subsection (4) of this section.

(6) No provider participating in the medical assistance program shall deny services to any eligible recipient due to the inability of a recipient to make the required copayment. This provision shall not excuse the recipient from liability for payment of the charge.

SECTION 98. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall review the Medical Assistance Program reimbursement rates for emergency transportation providers to determine if existing rates are fair and reasonable. Notwithstanding this review, the cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A do the following:

(1) Prescribe reimbursement rates for emergency transportation providers to ensure that emergency rates are paid only for transporting medical assistance recipients to the emergency room of a hospital in emergency situations;

(2) Establish, in nonemergency cases, lower medical assistance reimbursement rates for emergency transportation providers for the transportation of stretcher patients from nursing homes to physician offices or hospitals; and

(3) Establish a verification system that requires medical providers to confirm that medical assistance recipients have appointments for medical services and that medical services were medically necessary and were obtained prior to payment by the cabinet to the emergency transportation provider.

SECTION 99. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication;

(4) A dispensing fee for each prescription in accordance with the findings of the report submitted by the cabinet pursuant to KRS 205.561.

SECTION 100. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall review the available technology associated with the medical assistance system to determine which technology is best suited to enhance program service operation, monitoring ability, and fraud and abuse detection. This shall include the ability to provide on-line access to data files to allow cross-analysis of provider and recipient utilization patterns. The cabinet shall by promulgation of administrative regulations, pursuant to KRS Chapter 13A, establish an integrated system to enhance program integrity, using a combination of staff, computer technology, and contractual services to identify potential fraud, abuse, and misutilization of services. This system shall:

(1) Utilize statisticians, program specialists, accountants, nurses, and other medical specialists to review the Medical Assistance Program to identify patterns of provider and recipient behavior that contributes to unnecessary or abusive use of program services;

(2) Utilize computer capability through contractual services or the purchase of computer software to detect the unbundling of claims and other techniques used by providers to enhance reimbursement;

(3) Impose utilization controls on the expenditures in respiratory, physical, speech, and occupational therapy and durable medical equipment provided to nursing home residents, through the use of established medical criteria or preauthorization of ancillary therapies;

(4) Establish state audit and edit requirements that exceed the federal audit and edit requirements;

(5) Obtain access to necessary data from the fiscal agent of each medical provider;

(6) Review the efficiency and effectiveness of the fraud and abuse detection and investigation process to determine whether changes shall be made;

(7) Direct that fraud and abuse detection and investigation components shall be active in initiating investigations. The fraud and abuse detection, investigation and prosecution functions shall be integrated, with access to information in files maintained by the Department for Social Insurance and the Department for Medicaid Services;

(8) Review penalties for deterrent value for medical providers that are found to have abused Medicaid regulations and statutes; and

(9) Provide for a proactive effort to reduce costs for institutionalized program participants. Program officials shall seek to implement innovative or experimental demonstration programs that aim to control costs.

SECTION 101. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall seek to strengthen the managed care component of the KenPAC Program. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Inclusion of noninstitutionalized blind, aged, and disabled recipients in an effort to reduce inappropriate usage;

(2) Financial incentives for KenPAC physicians who effectively manage the care of their patients. These incentives may include an increase in the case management fee for demonstrated effective case management, or through other arrangements that encourage the effective and efficient management of patients. Clear and concise administrative regulations promulgated under KRS Chapter 13A shall be established by the cabinet to determine physician qualification for the incentives;

(3) A pilot project to establish an oversight and education program in the KenPAC system to assist with patient education regarding the appropriate and effective use of the system, and to assist providers with more efficient management of patients;

(4) Criteria to avoid duplication of the provision of early and periodic screening, diagnosis and treatment type services to children in the KenPAC Program;

(5) A review of the feasibility of a demonstration project to allow health maintenance organizations to bid on the provision of services to KenPAC participants;

(6) Extension of KenPAC to all counties within the state. The cabinet shall determine the feasibility of working with state-supported medical schools to obtain physicians in the counties where KenPAC does not operate; and

(7) More stringent reporting and verification requirements in contracts with KenPAC physicians regarding verification of services provided to KenPAC patients.

SECTION 102. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall seek to prohibit the sheltering of assets in medical assistance long-term care cases by promulgation of administrative regulations, pursuant to KRS Chapter 13A, that establish the following:

(1) Consideration of assets placed in Medicaid qualifying trusts as a prohibited transfer of resources, to the extent prohibited by federal law;

(2) Revision of Medicaid policy to provide that assets funding the purchase of an annuity shall be treated as a transfer

of resources;

(3) Revision of Medicaid policy to treat income producing property as an available resource;

(4) Review of Medicaid eligibility procedures and operation to improve eligibility verification and detection of fraud and abuse; and

(5) Review of the feasibility of instituting a photographic identification card, possibly in conjunction with other entitlement programs, to reduce fraud and abuse through misuse of medical cards.

SECTION 103. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall by promulgation of administrative regulations enhance third-party resource collection capacity in Medicaid cases through utilization of in-house personnel and selective contracting for high-volume or high-technological services.

SECTION 104. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall review all medical assistance reimbursement systems for appropriateness and cost effectiveness. The review shall include:

(1) Review of cost-based reimbursement policies for hospitals and nursing homes to determine the effectiveness and appropriateness of alternate systems. Consideration shall be given to the use of modified diagnostic related groups and resource utilization groups systems, using capitated payment methods; and

(2) Review of reimbursement rates for physicians to determine whether savings or cost containment would be better achieved through using a relative based resource value scale system, a capitated payment method, or other alternative methods of reimbursement; and

(3) For all medicaid covered long-term care services, implementation of a standardized patient assessment tool and consistent quality of care mandates.

SECTION 105. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall promulgate administrative regulations that establish a system providing for the reporting to the General Assembly, on a quarterly basis, as to the progress in implementing the provisions of Sections 96 to 107 of this Act, the findings of any reports or studies authorized by Sections 96 to 107 of this Act, and recommendations regarding the reports or studies.

SECTION 106. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall promote access to preventive health services by low-income Kentuckians through local health departments by recognizing local and district health departments qualified as primary care centers for purposes of Medicaid reimbursement.

(2) (a) The Cabinet for Human Resources shall establish a program as a provider of last resort which permits persons with family incomes below two hundred percent (200%) of the federal poverty level to purchase, through the medicaid program, health services covered by medicaid from participating providers at the same rate medicaid pays for the service, subject to the same copayment requirements as medicaid recipients.

(b) All health care providers participating in the medicaid program shall be required to participate in the program established pursuant to this subsection.

(c) Any health care provider participating in the program established pursuant to this subsection who charges a program participant a rate higher than that paid by medicaid for the same service shall be subject to a fine of five hundred dollars ($500) for each violation.

SECTION 107. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Department for Medicaid Services shall develop and implement, effective July 1, 1995, a system for monitoring the use of medical assistance program covered services by medical assistance recipients using smart card and other technologies. As used in this section, "smart card" means an identification card issued to each medical assistance recipient containing a photograph of the recipient and an electronic device which enables computer tracking of:

(1) All drugs and durable medical equipment prescribed for and dispensed to the recipient;

(2) All medical assistance covered physician office visits made by the recipient; and

(3) Any other medical assistance program covered service provided to the medical assistance recipient as defined by administrative regulation promulgated pursuant to KRS Chapter 13A and under this chapter.

SECTION 108. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall request any waivers of federal law that are necessary to implement the provisions of Sections 96 to 107 of this Act.

PART 13

CONFORMING AMENDMENTS

Section 109. KRS 205.640 is amended to read as follows:

(1) ***For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.***

(2) The commissioner of medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3)~~[(2)]~~ The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to ***Sections 120 to 138 of this Act*** ~~[KRS 142.201 to 142.259]~~ shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. ~~[It is the intent of the General Assembly that]~~ Provider tax revenues collected in accordance with ***Sections 120 to 138 of this Act*** ~~[KRS 142.201 to 142.259]~~ shall be used to fund the ***provisions of Sections 5 to 10 of this Act*** ~~[Health Care Data Commission created in KRS 216.273]~~ and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years***. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts***~~[, and that all funds credited to the MART fund will be matched with federal medicaid funds to the greatest extent possible]~~.

(4)~~[(3)]~~ The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of medicaid services in accordance with the provisions of subsection (1) of this section. All investment earnings of the fund shall be credited to the fund. ~~[It is the intent of the General Assembly that all funds transferred to the MAIT fund will be matched with federal medicaid funds.]~~ ***Notwithstanding the provisions of KRS 48.500 and 48.600,*** the MAIT fund shall be exempt from any state budget reduction acts.

(5)~~[(4)]~~ An amount, ***necessary to result in a total fund of eighty one million dollars ($81,000,000) for fiscal year 1995, and eighty six million five hundred thousand dollars ($86,500,000) for fiscal year 1996*** including provider tax revenues and federal matching funds, to the extent possible, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of medicaid services.

(a) The sum of one million dollars ($1,000,000) in fiscal year 1995, and one and one half million dollars ($1,500,000) in fiscal year 1996, taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources.

(b) The amount remaining in the MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for inpatient service provided by the hospitals to medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources in accordance with this section.

(c) No individual hospital shall receive distributions from the MAIT fund that exceed indigent inpatient care provided by the hospital that meet the guidelines established in paragraphs (a) and (b) of this subsection and documented to the Department for Medicaid Services, based upon compensation for the services at the hospital's medicaid rate.

(d) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

1. Hospitals shall report inpatient care provided to medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty including care rendered to persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital, and except nonemergency care rendered through a hospital emergency room, level to the Cabinet for Human Resources on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.

2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the lesser of each hospital's individual per diem rate or the weighted median per diem for hospitals in each peer group, as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(6)[~~(5)~~] ***Except for nonemergency care rendered through a hospital emergency room,*** [~~The commissioner of the Department for Medicaid Services shall implement a disproportionate share program which will take into consideration the amount of service provided by hospitals for medicaid recipients beyond the covered days and individuals and families with incomes up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to guidelines established by the Cabinet for Human Resources; the percentage of total services rendered by the hospital that consists of services provided to medicaid recipients and persons receiving SSI benefits; and hospitals serving a federally designated medically underserved area, a federally designated health manpower shortage area, or a primary care physician shortage area designated under the rural Kentucky medical scholarship fund. Provided that no individual hospital shall receive distributions from the MAIT fund that exceed indigent care provided by the hospital and documented to the Department for Medicaid Services, based upon compensation for the services at the facility's medicaid rate.~~] hospitals receiving reimbursement from the MAIT fund shall not bill ***patients*** for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(7)[~~(6)~~] The secretary of the Cabinet for Human Resources shall promulgate administrative regulations necessary***, pursuant to KRS Chapter 13A,*** for the administration and implementation of this section.

(8)[~~(7)~~] All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and 18A.2281;

(c) Provide to medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for medicaid recipients. ***The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.***

Section 110. KRS 214.450 is amended to read as follows:

As used in KRS 214.452 to 214.466, unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS 216B.015***(10)***[~~(11)~~] which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015***(11)***[~~(12)~~] and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

Section 111. KRS 194.030 is amended to read as follows:

The Cabinet for Human Resources shall consist of the following major organizational units which are hereby created:

(1) Office of the Secretary;

(2) The Office for Policy and Budget. The Office for Policy and Budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy, and the evaluation of programs. The Office for Policy and Budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(3) The Office of the Counsel. The Office of the Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105;

(4) The Office of the Ombudsman. The Office of the Ombudsman shall provide a review of citizen complaints on services of the Cabinet for Human Resources when such complaints cannot be resolved through normal administrative remedies. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the Governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary;

(5) The Office of Administrative Services. The Office of Administrative Services shall be responsible for providing administrative support services within the Cabinet for Human Resources. All fiscal, facility, and information management functions of the cabinet shall be vested in the Office of Administrative Services. The Office of Administrative Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(6) The Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the Department for Social Insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(7) The Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for medicaid services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(8) The Department for Health Services. The Department for Health Services shall develop and operate all programs of the cabinet that provide health services and all programs for the prevention, detection, care, and treatment of physical disability, illness, and disease. The Department for Health Services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the Department for Health Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(9) The Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall provide services for all programs for the prevention, detection, and treatment of mental disability, illness, and disease and administer all programs for the assistance of community treatment and prevention of such disability, illness, and disease. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary for human resources

with the approval of the Governor in accordance with KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary for human resources and shall only fulfill such responsibilities as delegated by the secretary;

(10) The Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(11) The Department for Employment Services. The Department for Employment Services shall develop and operate all employment development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. In addition, the department shall develop and operate all programs relating to unemployment insurance laws of the Commonwealth including responsibilities relating to hearing and judging unemployment insurance benefit appeals. The Department for Employment Services shall be headed by a commissioner for employment services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for employment services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for employment services shall exercise authority over the Department for Employment Services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary;

(12) The Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the Cabinet for Human Resources into matters related to the cabinet or its programs;

(b) Licensing and regulatory functions as the secretary may delegate;

(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.247; and

(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(13) The Commission for Handicapped Children. The duties, responsibilities**,** and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of handicapped children, and to the extent that funds are available, shall provide such services and facilities for handicapped children as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate such administrative regulations pursuant to KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the commission for handicapped children shall be performed through the Office of the Executive Director of the Commission. The executive director shall be appointed by the Governor pursuant to KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for such removal. The executive director shall report directly to the Commission for Handicapped Children and serve as the commission's secretary; and

(14) The ***Kentucky Health Policy Board*** [~~Commission for Health Economics Control in Kentucky~~]. The duties, responsibilities**,** and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS 216B.010 to 216B.990, shall be performed by the commission. The commission may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement and administer its responsibilities.

Section 112. KRS 194.120 is amended to read as follows:

The ***Kentucky Health Policy Board*** [~~Commission for Health Economics Control in Kentucky~~] and the Commission for Handicapped Children shall be the only statutory bodies attached to the cabinet that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, presently or hereinafter attached to the cabinet, shall issue administrative regulations, but shall operate only in an advisory capacity.

Section 113. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the *Kentucky Health Policy Board* [~~Commission for Health Economics Control in Kentucky~~] to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Public Law 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the Cabinet for Human Resources.

Section 114. KRS 216.535 is amended to read as follows:

As used in KRS 216.537 to 216.590:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the *Kentucky Health Policy Board* [~~Commission for Health Economics Control in Kentucky~~] to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Public Law 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Resident" means any person admitted to a long-term care facility as defined by this section.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the Cabinet for Human Resources.

(6) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities.

(7) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.

Section 115. KRS 216.885 is amended to read as follows:

(1) It is unlawful to operate or maintain a PPEC center without first obtaining a certificate of need from the *Kentucky Health Policy Board* [~~Commission for Health Economics Control in Kentucky~~] and a license for the PPEC center from the cabinet. The cabinet is responsible for licensing PPEC centers in accordance with the provisions of KRS Chapter 216B.

(2) Separate licenses are required for PPEC centers maintained on separate premises, even though they are operated under the same management. Separate licenses are not required for separate buildings on the same grounds.

(3) The Cabinet for Human Resources may deny, revoke, modify or suspend a license in accordance with KRS 216B.105.

PART 14

MISCELLANEOUS PROVISIONS

SECTION 116. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for Human Resources, shall on a quarterly basis, certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from the procedures required by Sections 96 to 107 of this Act and any other procedures adopted by the Cabinet for Human Resources or the Kentucky Health Policy Board to control the cost of health care.

(2) The certification shall indicate the following:

  (a) The means by which savings were achieved, including a description of the discrete procedure used to achieve the savings; and

  (b) The amount saved as a result of the specific procedure, including an explanation as to the calculations and assumptions used in determining the amount.

(3) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for Human Resources to provide health care coverage for additional categories of citizens, but the funds in the trust account shall not be spent until appropriated by the General Assembly. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.

(4) Savings in the general fund appropriation for the Medicaid program shall be determined as follows:

  (a) To the extent that the average cost per month per eligible actually experienced by the Medicaid program is less than the average cost per month per eligible reflected in the enacted budget, the savings attributable to

that difference shall be deemed to be eligible for certification under this section.

(b) To the extent that the number of eligibles actually participating in the Medicaid program is less than the number reflected in the enacted budget, the savings attributable to that difference shall be deemed not eligible for certification under this section.

(5) Savings in the general fund appropriation to the Department of Mental Health shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(6) Savings in the general fund appropriation to the Department of Health Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(7) Savings in the general fund appropriation to the Department of Social Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(8) Only those savings that can be certified as being recurring shall be transferred to the trust fund.

PART 15

STATE EMPLOYEE HEALTH CARE PLAN BUY-IN

SECTION 117. A NEW SECTION OF KRS 18A.225 TO 18A.229 IS CREATED TO READ AS FOLLOWS:

(1) Any citizen of the Commonwealth shall be permitted to purchase health insurance coverage provided to state employees pursuant to KRS 18A.225 and 18A.2281, under the same terms and conditions as state employees. The premium charged for coverage for high risk individuals as defined by the Kentucky Health Policy Board shall not exceed two hundred percent (200%) of the premium paid by the Commonwealth for state employees.

(2) The secretary of the Finance and Administration Cabinet and the secretary of the Cabinet for Human Resources shall provide for a system to enroll any citizen who elects to purchase health insurance coverage under subsection (1) of this section using the county offices of the Cabinet for Human Resources. Citizens desiring to purchase coverage shall do so through the office of the Cabinet for Human Resources in the county of the citizen's residence. Payment for premiums shall be made in advance on a quarterly or annual basis, in a manner to be determined by administrative regulations of the Finance and Administration Cabinet promulgated pursuant to KRS Chapter 13A.

(3) Following the close of each calendar year, the Kentucky Health Policy Board shall determine for each of the insurance plans providing coverage to state employees and persons electing to purchase coverage pursuant to this section, the net premium, being premiums less administrative expense allowances, the plan expenses, and claim expenses losses for the year, taking into account investment income and other appropriate gains and losses.

(4) Each health insurer's proportion of participation in the state employee health plan shall be determined annually by the Kentucky Health Policy Board based on annual statements and other reports deemed necessary by the board and filed by the insurer with the board. The proportion of participation shall be determined by multiplying the total cost of each state health insurance plan coverage operation by a fraction, the numerator of which equals that insurer's premium and subscriber contract charges for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all premiums and subscriber contract charges written in the state. The amount of the assessment shall also be adjusted to ensure that the Commonwealth's cost of providing coverage to state employees does not increase more than the average rate of premium growth for state employees during the five (5) years preceding the effective date of this Act.

(5) Any deficit incurred by the state employee health insurance plan shall be recouped by assessments on all health insurers doing business in the Commonwealth pursuant to the assessment formula set forth by the Kentucky Health Policy Board. The insurers may recover these amounts in the normal course of their respective businesses without time limitation.

(6) The Kentucky Health Policy Board may abate or defer, in whole or in part, the assessment of an insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. If an assessment against an insurer is abated or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other insurers in a manner consistent with the basis for assessments set forth in this section. The insurer receiving an abatement or deferment shall remain liable to the Commonwealth for the deficiency for four (4) years.

(7) If assessments exceed actual losses and administrative expenses of the plan, the excess shall be held at interest and used by the Commonwealth to offset future losses or to reduce premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

Section 118. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service

corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally-funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees ***and persons who elect to purchase coverage pursuant to Section 117 of this Act***. All state employees ***and other persons*** for whom such insurance or health maintenance organization coverage is provided ***or made available*** shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other

expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The commissioner of personnel shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Supreme Court districts, members representing state government from each of the seven Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

Section 119. KRS 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the Department of Personnel may establish a state employee benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2) ***or Section 117 of this Act***. All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any amount due over that contributed by the state or department, board, or agency for coverage shall be paid by the employee.

(4) No contribution by the state or department, board, or agency shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of such employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the Department of Personnel may approve.

(6) Group rates under the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

PART 16

PROVIDER TAX

SECTION 120. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

As used in Sections 120 to 138 of this Act:

(1) "Cabinet" means the Revenue Cabinet ;

(2) "Charitable provider" means any provider which does not charge its patients for health care items or services, and which does not seek or accept medicare, medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider.

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug.

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health care items or services in Kentucky, less the following:

  (a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health care items or services if:

    1. The employing or contracting provider receives revenue attributable to health care items or services provided by the employee or independent contractor receiving payment; and

    2. The employing or contracting provider is subject to the tax imposed by Section 121, 122, or 123 of this Act on the receipt of that revenue;

  (b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

    1. Research; or

    2. Administrative or operating costs associated with the implementation and operation of an experimental program;

  (c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

  (d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

  (e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health care items or services" means:

  (a) Inpatient hospital services;

  (b) Outpatient hospital services;

  (c) Nursing facility services;

  (d) Services of intermediate care facilities for the mentally retarded;

  (e) Physicians' services;

  (f) Licensed home health care agency services;

  (g) Outpatient prescription drugs; and

  (h) HMO services;

(7) "Health maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "Human resources secretary" means the secretary of the Cabinet for Human Resources or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate care facility services for the mentally retarded," "physician services," "licensed home health care agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. part 440, as in effect on December 31, 1993.

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for Human Resources in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing facility services" means services provided by a licensed skilled care facility, nursing facility, nursing home or intermediate care facility, excluding intermediate care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "Secretary" means the secretary of the Revenue Cabinet or that person's authorized representative.

SECTION 121. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

A tax is hereby imposed at a rate of two and one-half percent (2.5%) on gross revenues received by all providers on or after the effective date of this Act for the provision of hospital services. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under Section 123 of this Act.

SECTION 122. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

A tax is hereby imposed at a rate of two percent (2%) on gross revenues received by each provider on or after the effective date of this Act for the provision of nursing facility services, intermediate care facility services for the mentally retarded, physician services, licensed home health care services and HMO services. The tax imposed by this section shall apply to freestanding psychiatric hospitals if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under Section 123 of this Act.

SECTION 123. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

A tax is hereby imposed on pharmacies or any other provider, dispensing or delivering in a suitable container outpatient prescription drugs in this state, at the rate of twenty-five cents ($0.25) per prescription for which any initial payment is received on or after the effective date of this Act.

SECTION 124. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

For the purposes of the taxes imposed under Sections 121, 122, and 123 of this Act:

(1) If two (2) or more providers provide health care items or services as an entity, and the entity is also a provider, then the entity shall be the taxable provider with regard to gross revenues received for health care items and services provided through the entity.

(2) If a provider who provides services through an entity receives gross revenues for the provision of health care items and services from a source other than the entity, the individual provider shall be the taxable provider with respect to that revenue.

SECTION 125. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

Charitable providers as defined in Section 120 of this Act shall be exempt from the taxes imposed by Sections 121, 122, and 123 of this Act, as well as the provisions of Sections 126, 130, 132, and 133 of this Act upon providing proper certification to the cabinet.

SECTION 126. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Every provider subject to the taxes imposed by Sections 121, 122, and 123 of this Act that is not registered with the cabinet pursuant to the provisions of KRS 142.221 shall, on the effective date of this Act, file an application for a certificate of registration with the cabinet. A certificate of registration filed in accordance with the provisions of KRS 142.221 shall remain valid for purposes of Sections 120 to 138 of this Act. Every provider seeking to provide health care items or services in Kentucky for the first time after the effective date of this Act shall, prior to providing these items or services, file an application for a certificate of registration with the cabinet. The application shall be in the form prescribed by the cabinet. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Every state board responsible for licensing or governing any provider subject to the tax imposed by Sections 121, 122, and 123 of this Act shall, upon request by the cabinet, provide any information available to the licensing board necessary for the administration of the taxes imposed by Sections 121, 122, and 123 of this Act. The information shall be in the form required by the cabinet and shall be used by the cabinet for the sole purpose of administering the taxes imposed by Sections 121, 122, and 123 of this Act.

(3) Every state board responsible for licensing or governing any provider subject to the tax imposed by Sections 121, 122, and 123 of this Act shall, upon request by the cabinet, include the application for certificate of registration required by subsection (1) of this section with any new license issued. Application forms shall be provided by the cabinet to the licensing board.

SECTION 127. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

The taxes imposed by Sections 121, 122, and 123 of this Act are due and payable to the cabinet monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

SECTION 128. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in the form prescribed by the cabinet, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly authorized agent.

(3) The return shall show the gross revenues of the provider during the preceding reporting period. The return shall also show the amount of taxes for the period covered by the return and other information as the cabinet deems necessary for the proper administration of Sections 120 to 138 of this Act.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of the tax due, to the cabinet.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by Sections 121, 122, and 123 of this Act, the cabinet may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section, except the cabinet shall not require or permit returns or payments to be filed or remitted more frequently than monthly.

SECTION 129. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(2) Any person for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 130. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return is received, the cabinet shall examine it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the later of the date the return was filed or due, except that in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of assessment shall be mailed to the provider. The provider and the cabinet may agree to extend this time period.

(2) Any provider aggrieved by an action of the cabinet may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

(3) Notwithstanding the four (4) year time limitation set forth in subsection (1), in the case of a return where the provider understates gross revenues by twenty-five percent (25%) or more, the excess shall be assessed by the cabinet within six (6) years from the later of the date the return is due or filed.

SECTION 131. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability, the cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 132. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Every provider shall keep records, receipts, invoices, and other pertinent papers in the form as the cabinet may require.

(2) Every provider who files the returns required under Section 127 of this Act shall keep records for not less than six (6) years from the making of records unless the cabinet in writing authorizes their destruction at an earlier date.

SECTION 133. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

SECTION 134. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Except when the human resources secretary has been granted specific authority in KRS Sections 120 to 138 of this Act, the cabinet shall administer the provisions of Sections 120 to 138 of this Act, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by Sections 121, 122, and 123 of this Act, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for Human Resources shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by Sections 121, 122, and 123 of this Act.

(3) The Cabinet for Human Resources shall fully cooperate with the cabinet and shall provide the cabinet with any information requested to carry out the provisions of Sections 120 to 138 of this Act.

SECTION 135. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) A report of revenue receipts from the taxes imposed by Sections 121, 122, and 123 of this Act shall be provided on a quarterly basis by the cabinet to the human resources secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under Sections 121, 122, and 123 of this Act to register with the cabinet, and comply with the tax and reporting provisions of Sections 120 to 138 of this Act.

SECTION 136. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it is deemed necessary to insure compliance with the provisions of Sections 120 to 138 of this Act, the cabinet may require any person subject to the taxes imposed by Sections 121, 122, and 123 of this Act to place security with it. The amount of the security shall be fixed by the cabinet, but shall not be greater than three (3) times the estimated average liability of the provider or all providers in the same class as the provider, whichever is greater. This limitation shall apply regardless of the type of security placed with the cabinet.

(2) The amount of the security may be increased or decreased by the cabinet, subject to the limitations provided in subsection (1) of this section.

(3) (a) If necessary, the cabinet may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the cabinet at a private sale at a price not lower than the prevailing market price.

(b) 1. The cabinet shall provide notice by certified mail, sent to the last known address as reflected in the records of the cabinet, or by delivery, to the person who placed the security with the cabinet of the date, time, and place of the sale.

2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the cabinet after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order, or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the provider.

SECTION 137. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of Sections 120 to 138 of this Act, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of Sections 120 to 138 of this Act shall be personally and individually liable jointly and severally, for the taxes imposed under Sections 121, 122, and 123 of this Act. Neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the liability imposed by this section. The personal and individual liability shall apply to each and every person holding a corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section if that person did not have authority in the management of the business or financial affairs of the corporation at the time the taxes imposed by Sections 121, 122, and 123 of this Act become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.010(6) and all applicable penalties and fees imposed under the provisions of Sections 120 to 138 of this Act, and KRS 131.180, 131.440, and 131.990.

SECTION 138. A NEW SECTION OF KRS CHAPTER 142 IS CREATED TO READ AS FOLLOWS:

Penalties shall be imposed and assessed in accordance with the provisions of KRS 131.180.

SECTION 139. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall establish a loan repayment program to repay educational loans for primary health care professionals who agree to serve in federally-designated health professional shortage areas. The program shall:

(1) Apply for federal funds for the program under the Public Health Service Act (42 U.S.C. 254g-1);

(2) Make payments of qualifying educational loans of health professionals agreeing to provide primary health services in federally designated health professional shortage areas;

(3) Assign health professionals only to public and private nonprofit entities;

(4) Enter into contracts with participants with remedies for breach of contract by the health professional; and

(5) Make available nonfederal contributions towards contracts with individual health professionals in an amount not less than one dollar ($1) for each one dollar ($1) of federal funds provided. In meeting this matching fund requirement, the state shall provide fifty percent (50%) of the state's share from state funds, and the remaining fifty percent (50%) shall be provided from local governments or other community-based resources from the area in which the health professional will be serving.

PART 17

REPEALERS

Section 140. The following KRS sections are repealed:

142.201 Definitions for KRS 142.201 to 142.259.

142.203 Tax on gross revenues of hospitals for provision of health care items or services or hospital services.

142.207 Tax on gross revenues for provision of specified health care items or services – Exception.

142.211 Tax on pharmacies providing prescription drugs and prescribed durable medical equipment – Transfers of tax to named entities – Tax on contractors for provision of outpatient prescription drugs.

142.213 Prohibition against transfer of taxes to recipient of taxable items or services – Exemption of charitable hospitals and providers from tax – Time when taxes imposed by KRS 142.201 to 142.259 become inapplicable.

142.217 Adjustments to tax rates set in KRS 142.203, 142.207, and 142.211 – Method – Requirement of General Assembly approval to increase rates.

142.221 Application for certificate of registration – Information to Revenue Cabinet from licensure boards.

142.223 Due date of taxes.

142.227 Filing of returns – Requirements.

142.231 Extension of time for filing return.

142.233 Processing of return – Billing for additional tax – Review of action of Revenue Cabinet – Taxpayer's right of appeal.

142.237 Offset of overpayments.

142.241 Records to be kept by provider.

142.243 Interest on unpaid tax.

142.247 Administration by Revenue Cabinet.

142.251 Reports of revenue receipts – Notification of rate changes – Duties of providers to register and comply.

142.253 Surety bond – Restraining order or injunction.

142.257 Liability of corporate officers for taxes imposed by KRS 142.203, 142.207, and 142.211.

142.259 Penalties.

216.270 Definitions for KRS 216.273 to 216.287.

216.273 Kentucky Health Care Data Commission – Membership – Terms – Executive director and staff – Liability of members.

216.275 Powers and duties of commission.

216.277 Limitation of powers of Cabinet for Human Resources with respect to commission.

216.280 Data required to be submitted to commission – Promulgation of administrative regulations – Other duties of commission.

216.283 Private data – Treatment and use of personal and aggregate data – Penalty.

216.285 Reports by commission.

216.287 Furnishing of data as condition of licensure of provider.

304.17-275 Renewal of hospital or surgical or medical expense insurance.

304.17-380 Filing of rates.

304.17-383 Procedure for approval of rate filing containing increase – Exception for loss ratio guarantor.

PART 18

NONCODIFIED MATERIAL

Section 141. The Kentucky Health Policy Board shall be the successor to the Kentucky Health Care Data Commission, repealed under Section 140 of this Act, and all records, materials, and work of that commission shall be transferred to the Kentucky Health Policy Board.

Section 142. The tax levied under the provisions of Sections 120 to 138 of this Act is for the purpose of providing funding for the state medicaid program.

The Senate Floor Amendment No. 89 to the Senate Committee Substitute No. 2 is as follows:

On page 2, line 25, By deleting the word "*exempt from the provisions of*" and inserting in lieu thereof the words "*established as provided under*";

And on page 8, line 9, by deleting "*80*" and inserting in lieu thereof "*79*";

And on page 8, line 12, by deleting "*80*" and inserting in lieu thereof "*79*";

And on page 8, line 15, by deleting "*94*" and inserting in lieu thereof "*88*";

And on page 10, between line 25 and 26, by inserting the following new subsection:

"*(5) The Board shall not manage the day-to-day operations of the Kentucky Medical Assistance Program, but the Board shall have oversight responsibilities over the Kentucky medical assistance program and the provisions of KRS Chapter 205 notwithstanding, shall direct that immediate and specific cost containment and reduction actions be taken regarding the Medicaid Program including:*

(a) Purging of the Medicaid program rolls of all recipients not truly eligible through means of identifying persons illegally sheltering assets, collecting from liable third parties, and locating hidden income and resources;

(b) Constructing conservative Medicaid provider reimbursement methodologies including those imposing unnecessary costs on the program by paying for unbundled services;

(c) Instituting policies and procedures to allow reimbursement for nonemergency medical transportation for hardship cases only;

(d) Tightening up procedures for restrictive utilization review of provider charges;

(e) Commencing aggressive procedures to collect any funds due the program from drug manufacturers, providers, or recipients; and

(f) Reducing disproportionate share payments to Medicaid participating health facilities and health services which have not met their financial obligation to provide free services to indigent persons in compliance with conditions for prior receipt of state or federal funds such as the federal Hill-Burton Act."

And on page 13, line 23, By inserting after the word "*system*" the words "*, motor vehicle health insurance benefits, and health insurance premiums and benefits*";

And on page 13, line 26, By deleting "*and*";

And on page 13, line 27, By inserting "*and*" after the word "*services*";

And on page 13, Below line 27, By adding the following:

" *4. Health insurance costs; and*

5. The cost of health benefits covered by motor vehicle insurance.";

And on page 14, Between lines 6 and 7, By adding the following new subsection:

"*(3) All insurers and self-insurers authorized to write motor vehicle or health insurance in this state shall transmit at least annually by January 30 to the Kentucky Health Policy Board the following information on their insurance experience in this state for the preceding calendar year:*

(a) Total premiums paid;

(b) Total cost of claims filed;

(c) Total cost of health and medical claims paid for by motor vehicle insurance:

(d) Total policies canceled by type and the aggregate reasons therefor;

(e) List of total health and medical services paid for, grouped by types of services and costs;

1. Total cost per health and medical service per insured group per month:

a. Cost paid by insurer;

b. Cost paid by insured; and

2. Percentage of insureds who received each service.";

And on page 14, line 7, By renumbering "*(3)*"as "*(4)*";

And on page 77, line 24, after "*standard*" by inserting "*and additional*";

And on page 81, line 5, By deleting the words "*or authorize*";

And on page 83, line 25, by deleting "*80*" and inserting in lieu thereof "*79*";

And on page 85, line 20, by deleting "*77*" and inserting in lieu thereof "*76*";

And on page 90, line 24, after "***standard***" by inserting "***and additional***";

And on page 90, line 25, by deleting "***80***" and inserting in lieu thereof "***79***";

And on page 92, line 26, by deleting Section 75 in its entirety and by renumbering the remianing sections accordingly;

And on page 96, line 10, by deleting everything on the line after "***for***" and inserting in lieu thereof "***individuals and employer groups plus public employees.***";

And on page 96, line 11, by deleting lines 11 and 12 in their entirety;

And on page 99, on lines 9 to 10 by deleting "***The board may define a limited number of supplemental health benefit plans.***";

And on page 99, line 19, after "***board***" by adding "***and the additional plans approved by the board pursuant to paragraph (c) of this subsection***";

And on page 99, line 20, after "***plans***" by inserting "***and additional plans***";

And on page 99, by deleting lines 24 to 27 in their entirety and insert in its place:

"***(c) Each insurer may offer additional plans each of which shall include the provisions of a standard plan plus additional provisions upon approval of the additional plans by the board;***";

And on page 100, line 8 and on line 12, after "***standard***" by inserting "***and additional***";

And on page 100, line 20, after "***standard***" by inserting "***or additional***";

And on page 100, line 27, after "***board***" by inserting "***, or shall be an additional plan based on a standard plan,***";

And on page 101, line 16, by deleting Sections 81 through 83 in their entirety and by renumbering the remaining sections accordingly;

And on page 105, line 15, by deleting Sections 85 and 86 in their entirety and by renumbering the remaining sections accordingly;

And on page 109, line 23, by deleting "***80***" and inserting in lieu thereof "***79***";

And on page 115, line 19, by deleting "***92 to 94***" and inserting in lieu thereof "***86 to 88***";

And on page 117, line 5, by deleting "***92***" and inserting in lieu thereof "***86***";

And on page 120, line 2, by deleting "***92***" and inserting in lieu thereof "***86***";

And on page 120, line 9, by deleting "***92***" and inserting in lieu thereof "***86***";

And on page 128, line 24, by deleting "***96 to 107***" and inserting in lieu thereof "***90 to 101***";

And on page 128, line 25, by deleting "***96 to 107***" and inserting in lieu thereof "***90 to 101***";

And on page 130, line 9, by deleting "***96 to 107***" and inserting in lieu thereof "***90 to 101***";

And on page 130, line 20, by deleting "***120 to 138***" and inserting in lieu thereof "***114 to 132***";

And on page 130, line 23, by deleting "***120 to 138***" and inserting in lieu thereof "***114 to 132***";

And on page 143, line 25, by deleting "***96 to 107***" and inserting in lieu thereof "***90 to 101***";

And on page 147, between lines 16 and 17, by inserting the following new subsection:

"***(8) After July 14, 1995 this section shall become null and void.***";

And on page 148, line 23, by deleting "***117***" and inserting in lieu thereof "***111***";

And on page 152, line 11, by deleting "***117***" and inserting in lieu thereof "***111***";

And on page 153, line 16, by deleting "***120 to 138***" and inserting in lieu thereof "***114 to 132***";

And on page 154, line 15, by deleting "***121, 122, or 123***" and inserting in lieu thereof "***115, 116, or 117***";

And on page 156, line 25, by deleting "***123***" and inserting in lieu thereof "***117***";

And on page 157, line 9, by deleting "***123***" and inserting in lieu thereof "***117***";

And on page 157, line 19, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***115, 116, or 117***";

And on page 158, line 3, by deleting "***120***" and inserting in lieu thereof "***100***";

And on page 158, line 4, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***115, 116, and 117***";

And on page 158, line 5, by deleting "***126, 130, 132, and 133***" and inserting in lieu thereof "***120, 124, 126, and 127***";

And on page 158, line 9, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***115, 116, and 117***";

And on page 158, line 14, by deleting "***120 to 138***" and inserting in lieu thereof "***114 to 132***";

And on page 158, line 23, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***115, 116, and 117***";

And on page 158, line 25, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***115, 116, and 117***";

And on page 159, line 1, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***115, 116, and 117***";

And on page 159, line 3, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 159, line 9, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 159, line 22, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 159, line 26, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 161, line 9, by deleting "*127*" and inserting in lieu thereof "*121*";

And on page 161, line 19, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 161, line 20, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 161, line 22, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 161, lines 26 and 27, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 162, line 3, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 162, lines 6 and 7, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 162, lines 10 and 11, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 162, line 12, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 162, line 16, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 162, line 17, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 163, line 24, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 163, line 26, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 164, line 1, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 164, line 8, by deleting "*121, 122, and 123*" and inserting in lieu thereof "*115, 116, and 117*";

And on page 164, line 11, by deleting "*120 to 138*" and inserting in lieu thereof "*114 to 132*";

And on page 165, between lines 8 and 9, by inserting the following:

"PART 17 MEDICAL RECORDS

SECTION 134. A NEW SECTION OF KRS CHAPTER 422.300 TO 422.350 IS CREATED TO READ AS FOLLOWS:

Upon a patient's written request, a hospital licensed under KRS Chapter 216B or a health care provider shall provide, without charge to the patient, a copy of the patient's medical record. A copying fee, not to exceed one dollar ($1.00) per page, may be charged by the health care provider for furnishing a second copy of the patient's medical record upon request either by the patient or the patient's attorney or the patient's authorized representative." and by renumbering the remaining sections accordingly;

And on page 166, line 27, by deleting line 27 in its entirety;

And on page 167, line 1, by deleting lines 1 and 2 in their entirety;

And on page 167, line 6, by deleting "140" and inserting in lieu thereof "135";

And on page 167, line 9, by deleting "120 to 138" and inserting in lieu thereof "114 to 132".

The Senate Floor Amendment No. 1 to the Senate Committee Substitute No. 2 is as follows:

On page 129, line 11, By inserting after the word "*recipients*" the following words "*, with the exception of long-term care facilities*";

And also on page 129, line 12, By inserting after the word "*program*" the following words "*, with the exception of long-term care facilities,*";

And also on page 129, line 16, By inserting after the word "*subsection*" the following words "*, with the exception of long-term care facilities,*".

The Senate Floor Amendment No. 7 to the Senate Committee Substitute No. 2 is as follows:

On page 165, after line 8 but before line 9 by inserting the following:

"SECTION 140. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Within one (1) year of obtaining necessary waivers from the Federal a Health Care Financing Administration, the Secretary of the Cabinet for Human Resources shall take all necessary steps to implement from one (1) to three (3) pilot projects to provide health care services to frail elderly Medicaid eligible individuals through fully integrated managed care systems for the elderly similar to the Program of All-Inclusive Care for the Elderly (PACE) program currently being replicated on a national basis with the approval of Congress.

(2) Within ninety (90) days of the effective date of this Act, the Secretary of the Cabinet for Human Resources shall request the appropriate waivers from the Federal Health Care Financing Administration to implement a PACE program or a similar program in Kentucky."; and

On page 165, line 11 by deleting "140" and inseting in lieu thereof "141"; and

On page 167, line 5 by deleting "141" and inserting in lieu thereof "142"; and

On page 167, line 9 by deleting "142" and inserting in lieu thereof "143".

The Senate Floor Amendment No. 38 to the Senate Committee Substitute No. 2 is as follows:

On page 145, line 19, by deleting "*Commonwealth*" and inserting in lieu thereof "*United States, who has been a Kentucky resident for at least one (1) year prior to purchasing coverage under this section,*";

And on page 145, line 21, after "*employees*" by inserting "*until the Kentucky Health Purchasing Alliance created pursuant to Section 67 of this Act becomes operational*";

And on page 145, line 24, after "*employees.*" by inserting "*Policies issued under this section shall be valid for a period of one (1) year, and at the time of the policy's expiration the insured shall be eligible for participation in the Kentucky Health Purchasing Alliance created pursuant to Section 67 of this Act.*".

The Senate Floor Amendment No. 30 to the Senate Committee Substitute No. 2 is as follows:

On page 119, line 8, by inserting after the word "*Education*" the following words "*, the Legislative Research Commission, and the General Assembly*"

The Senate Floor Amendment No. 31 to the Senate Committee Substitute No. 2 is as follows:

On page 87, between lines 11 and 12, by inserting the following new subsection:

"*(7) No employer participating in the alliance shall be required to issue more than one (1) check per month to the alliance for payment of total health benefit plan premiums for the employer's covered employees.*"

The Senate Floor Amendment No. 32 to the Senate Committee Substitute No. 2 is as follows:

On page 87, line 8, by deleting the words "*For a minimum of one (1) year after January 1, 1995,*" and inserting in lieu thereof the words "*Until such time as the five standard health benefit plans become operational as provided under Section 80 of this Act,*"

The Senate Floor Amendment No. 33 to the Senate Committee Substitute No. 2 is as follows:

On page 80, line 11, by deleting "*and*" and inserting in lieu thereof "*or*"; and

On page 80, line 13, by deleting the period "*.*" and inserting in lieu thereof "*; or*"; and

On page 80, after line 13 but before line 14, by inserting the following:

"*(c) An affiliated group or association consisting of one hundred (100) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group*".

The Senate Floor Amendment No. 37 to the Senate Committee Substitute No. 2 is as follows:

On page 120, line 23, By deleting the word "*treat*" and inserting in lieu thereof "*evaluate and thereafter either treat or refer*";

And also on page 120, line 23, By deleting the word "*shall*" and inserting in lieu thereof "*may*".

The Senate Floor Amendment No. 46 to the Senate Committee Substitute No. 2 is as follows:

On page 96, by deleting lines 10 to 12 in their entirety.

The Senate Floor Amendment No. 48 to the Senate Committee Substitute No. 2 is as follows:

On page 85, line 8, after "*alliance*" by inserting "*along with other accountable health plans*".

The Senate Floor Amendment No. 49 to the Senate Committee Substitute No. 2 is as follows:

On page 100, line 12, after "***organizations***" by inserting "***or integrated health networks***".

The Senate Floor Amendment No. 50 to the Senate Committee Substitute No. 2 is as follows:

On page 79, line 13, after "***law***" by inserting "***if the following conditions are met:***

a. The Kentucky Health Policy Board determines enrolling medicaid recipients in the alliance to be practicable; and

b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling medicaid recipients in the alliance"

The Senate Floor Amendment No. 53 to the Senate Committee Substitute No. 2 is as follows:

On page 83, after line 2, but before line 3, by inserting the following:

"***(11) Notwithstanding any other provisions to the contrary, in order to support the teaching programs at the two (2) Health Science Centers, selective contracting for inpatient and outpatient services will include all university affiliated teaching facilities in order to maintain a broad base of patients essential for the support of accredited teaching programs.***"

The Senate Floor Amendment No. 57 to the Senate Committee Substitute No. 2 is as follows:

On page 12, by deleting lines 14 through 17 in their entirety and inserting in lieu thereof "***(6) "Risk-adjusted" means mathematical modification of health plan premiums to remove the effects of differences among health plans in their enrollees' health status, severity of illness, or other enrollees' characteristics that affect enrollees' need for health care but are not the result of the health care provided by the health plan.***"

The Senate Floor Amendment No. 58 to the Senate Committee Substitute No. 2 is as follows:

On page 132, line 4, by deleting the word "***inpatient***"; and

On page 132, line 15, by deleting the words "***based upon***"; and

On page 132, line 16, by deleting "***compensation for the services***" and inserting in lieu thereof "***as reimbursed***"; and

On Page 132, line 22 by deleting the word "***inpatient***"; and

On page 132, line 25, after the word "***to***", by inserting the word "***indigent***".

The Senate Floor Amendment No. 59 to the Senate Committee Substitute No. 2 is as follows:

On page 77, line 17 after the "***;***" by inserting the following: "***a provider sponsored integrated health delivery network which complies with financial and other criteria established by the Kentucky Health Policy Board to protect against financial insolvency and to assure capability of providing required services***"; and

On page 91, line 13 after "***means***" by inserting the following: "***a provider sponsored integrated health delivery network that offers an accountable health plan and which complies with the financial and other criteria established by the Kentucky Health Policy Board to protect against financial insolvency and to assure capability of providing required services; or***".

The Senate Floor Amendment No. 60 to the Senate Committee Substitute No. 2 is as follows:

On page 1, line 5, by deleting "***38 and 39***" and inserting in lieu thereof "***18 and 19***";

And on page 7, line 19, by deleting "***38***" and inserting in lieu thereof "***18***";

And on page 7, line 21, by deleting "***39***" and inserting in lieu thereof "***19***";

And on page 7, line 25, by deleting "***46***" and inserting in lieu thereof "***26***";

And on page 8, line 1, by deleting "***70***" and inserting in lieu thereof "***50***";

And on page 8, line 4, by deleting "***71***" and inserting in lieu thereof "***51***";

And on page 8, line 5, by deleting "***68***" and inserting in lieu thereof "***48***";

And on page 8, line 9, by deleting "***80***" and inserting in lieu thereof "***60***";

And on page 8, line 11, by deleting "***68***" and inserting in lieu thereof "***48***";

And on page 8, line 12, by deleting "***68 and 80***" and inserting in lieu thereof "***48 and 60***";

And on page 8, line 15, by deleting "***94***" and inserting in lieu thereof "***74***";

And on page 23, line 17, by deleting Sections 18 through Sections 37 in their entirety and by renumbering the remaining sections accordingly;

And on page 48, line 1, by deleting "***39 to 40***" and inserting in lieu thereof "***19 to 20***";

And on page 56, line 2, by deleting "***43***" and inserting in lieu thereof "***23***";

And on page 56, line 5, by deleting "***43***" and inserting in lieu thereof "***23***";

And on page 76, line 5, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 76, line 9, by deleting "***72***" and inserting in lieu thereof "***52***";

And on page 76, line 11, by deleting "***67***" and inserting in lieu thereof "***47***";

And on page 76, line 25, by deleting "***70***" and inserting in lieu thereof "***50***";

And on page 81, line 5, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 81, line 12, by deleting "***66***" and inserting in lieu thereof "***46***";

And on page 82, line 18, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 83, line 6, by deleting "***67***" and inserting in lieu thereof "***47***";

And on page 83, line 22, by deleting "***72***" and inserting in lieu thereof "***52***";

And on page 83, line 25, by deleting "***80***" and inserting in lieu thereof "***60***";

And on page 85, line 20, by deleting "***77***" and inserting in lieu thereof "***57***";

And on page 87, line 17, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 87, line 18, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 87, line 21, by deleting "***67***" and inserting in lieu thereof "***47***";

And on page 87, line 24, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 88, line 12, by deleting "***66 to 72***" and inserting in lieu thereof "***46 to 52***";

And on page 90, line 13, by deleting "***73 to 80***" and inserting in lieu thereof "***53 to 60***";

And on page 90, line 25, by deleting "***80***" and inserting in lieu thereof "***60***";

And on page 91, line 17, by deleting "***66***" and inserting in lieu thereof "***46***";

And on page 93, line 15, by deleting "***80***" and inserting in lieu thereof "***60***";

And on page 95, line 26, by deleting "***73***" and inserting in lieu thereof "***53***";

And on page 98, line 12, by deleting "***73***" and inserting in lieu thereof "***53***";

And on page 106, line 27, by deleting "***75***" and inserting in lieu thereof "***55***";

And on page 109, line 23, by deleting "***80***" and inserting in lieu thereof "***60***";

And on page 115, line 19, by deleting "***92 to 94***" and inserting in lieu thereof "***72 to 74***";

And on page 117, line 5, by deleting "***92***" and inserting in lieu thereof "***72***";

And on page 120, line 2, by deleting "***92***" and inserting in lieu thereof "***72***";

And on page 120, line 9, by deleting "***92***" and inserting in lieu thereof "***72***";

And on page 128, line 24, by deleting "***96 to 107***" and inserting in lieu thereof "***76 to 87***";

And on page 128, line 25, by deleting "***96 to 107***" and inserting in lieu thereof "***76 to 87***";

And on page 130, line 9, by deleting "***96 to 107***" and inserting in lieu thereof "***76 to 87***";

And on page 130, line 20, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 130, line 23, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 143, line 25, by deleting "***96 to 107***" and inserting in lieu thereof "***76 to 87***";

And on page 148, line 23, by deleting "***117***" and inserting in lieu thereof "***97***";

And on page 152, line 11, by deleting "***117***" and inserting in lieu thereof "***97***";

And on page 153, line 16, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 154, line 15, by deleting "***121, 122, or 123***" and inserting in lieu thereof "***101, 102, or 103***";

And on page 156, line 25, by deleting "***123***" and inserting in lieu thereof "***103***";

And on page 157, line 9, by deleting "***123***" and inserting in lieu thereof "***103***";

And on page 157, line 19, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 158, line 3, by deleting "***120***" and inserting in lieu thereof "***100***";

And on page 158, line 4, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 158, line 5, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 158, line 9, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 158, line 14, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 158, line 23, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 158, line 25, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 159, line 1, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 159, line 3, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 159, line 9, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 159, line 22, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 159, line 26, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 161, line 9, by deleting "***127***" and inserting in lieu thereof "***107***";

And on page 161, line 19, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 161, line 20, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 161, line 22, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 161, lines 26 and 27, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 162, line 3, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 162, lines 6 and 7, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 162, lines 10 and 11, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 162, line 12, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 162, line 16, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 162, line 17, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 163, line 24, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 163, line 26, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 164, line 1, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 164, line 8, by deleting "***121, 122, and 123***" and inserting in lieu thereof "***101, 102, and 103***";

And on page 164, line 11, by deleting "***120 to 138***" and inserting in lieu thereof "***100 to 118***";

And on page 167, line 6, by deleting "140" and inserting in lieu thereof "120";

And on page 167, line 9, by deleting "120 to 138" and inserting in lieu thereof "100 to 118".

The Senate Floor Amendment No. 64 to the Senate Committee Substitute No. 2 is as follows:

On page 89, By deleting line 22 in its entirety;

And on page 89, line 23, By relettering "***(o)***" as "***(n)***";

And on page 89, line 24, By relettering "***(p)***" as "***(o)***";

And on page 89, line 25, By relettering "***(q)***" as "***(p)***";

And on page 89, line 26, By relettering "***(r)***" as "***(q)***".

The Senate Floor Amendment No. 74 to the Senate Committee Substitute No. 2 is as follows:

On page 126, line 15, before "***The***" by inserting "***(1)***";

On page 126, line 18, by deleting "***(1)***" and inserting in lieu thereof "***(a)***";

On page 126, line 20, by deleting "***(2)***" and inserting in lieu thereof "***(b)***";

On page 126, line 26, by deleting "***(3)***" and inserting in lieu thereof "***(c)***";

On page 127, line 2, by deleting "***(4)***" and inserting in lieu thereof "***(d)***";

On page 127, line 4, by deleting "*(5)*" and inserting in lieu thereof "*(e)*";

On page 127, line 6, by deleting "*(6)*" and inserting in lieu thereof "*(f)*";

On page 127, line 9, by deleting "*(7)*" and inserting in lieu thereof "*(g)*"; and

On page 127, between lines 10 and 11, by inserting the following new subsection:

"*(2) The secretary shall promulgate by administrative regulation standards for access and quality which any health maintenance organizations serving medicaid recipients shall meet. The secretary shall not provide medicaid services through a health maintenance organization which does not demonstrate the capacity to meet the standards. The standards shall address at least the following subjects:*

(a) Access to care including patient to physician ratios, availability of appropriate specialists, distance to care, travel and waiting times, and physical and language barriers;

(b) Internal and external methods for monitoring quality of care;

(c) Data collection and reporting, including provision of data on utilization, outcomes, enrollee satisfaction, and the number, type, and resolution of grievances and complaints, with subpopulation data for at risk populations;

(d) Due process procedures including written notice of appeal rights, timelines for resolution of complaints, and expedited appeals processes;

(e) Consumer representation and patient advocacy; and

(f) Marketing practices including prohibited practices and standards for advertisements and printed marketing materials.".

The Senate Floor Amendment No. 75 to the Senate Committee Substitute No. 2 is as follows:

On page 90, line 8, by inserting after "*plan*" the words "*except for providers who are employed by a health maintenance organization or are employed full-time by a provider network and receive a salary*".

The Senate Floor Amendment No. 76 to the Senate Committee Substitute No. 2 is as follows:

On page 90, line 1, By inserting after the word "*residence*" the following: "*,to the extent those services are available within that area, and assures that all services not available therein shall be offered at sites as proximate to the enrollee as possible*".

The Senate Floor Amendment No. 87 to the Senate Committee Substitute No. 2 is as follows:

On page 165, after line 8, but before line 9 by inserting the following:

"PART 17

SECTION 140. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) It is the finding of the General Assembly that the American Medical Association and Kentucky Medical Association have determined that agreements between health care providers that allow or encourage the enforcement of contractual provisions by which one (1) health care provider agrees not to compete against another health care provider or group of health care providers for a period of time upon the severance of any relationship between the health care providers is unethical. It is further the finding of the General Assembly that these agreements serve to increase health care costs by creating a barrier in the physician and patient relationship which forces the patient to seek alternate care from another health care provider, even if the original treating provider remains in the community. It is therefore the finding of the General Assembly that these agreements are contrary to the public policy of the Commonwealth.

(2) An agreement between health care providers that allows or encourages the enforcement of contractual provisions by which one (1) health care provider agrees not to compete against another health care provider or group of health care providers for a period of time upon the severance of any relationship between the health care providers shall be void as against public policy and not enforceable if the period of time is for one (1) year or longer."; and

On page 165, line 9, by deleting "17" and inserting in lieu thereof "18"; and

On page 165, line 11 by deleting "140" and inserting in lieu thereof "141"; and

On page 167, line 3 by deleting "18" and inserting in lieu thereof "19"; and

On page 167, line 5 by deleting "141" and inserting in lieu thereof "142"; and

On page 167, line 6 by deleting "140" and inserting in lieu thereof "141"; and

On page 167, line 9 by deleting "142" and inserting in lieu thereof "143".

The Senate Floor Amendment No. 9 to the Senate Committee Substitute No. 2 is as follows:

On page 92, by deleting lines 24 and 25 and inserting in lieu thereof:

"*(3) Health care benefit plans shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and is willing to meet the terms and conditions for participation established by the health benefit plan.*"

The Senate Floor Amendment No. 42 to the Senate Committee Substitute No. 2 is as follows:

On page 84, line 2, after "*1994.*" by inserting "*However, all standard benefit plans shall include a hospice benefit at least equal to the medicare hospice benefit.*";

And on page 100, line 17, after "*services;*" by inserting "*hospice care at least equal to the medicare benefit;*".

Representative Long moved that the Conference Committee Report on **HB 455** requesting a Free Conference be adopted. Agreed.

In anticipation of a need for a Conference Committee on **HB 301**, the following members were appointed to serve: Representatives Clarke, Long, Rapier, Richards, Noland and L. Clark.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 455**.

In anticipation of a need for a Conference Committee on **HB 250**, the following members were appointed to serve: Representatives Long, Rapier, Richards, Scorsone, Noland and L. Clark.

Orders of the Day

HB 67, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 67** is as follows:

On page 2, after line 17, by adding the following:

"Section 3. KRS 156.405 is amended to read as follows:

(1) The purpose of the State Textbook Commission is to provide a list of current and high quality textbooks to local school districts, which complement the educational program in Kentucky schools, and to provide for public participation in the adoption process.

(2) The State Textbook Commission shall consist of the chief state school officer and eleven (11) appointive members. The eleven (11) members shall be appointed by the State Board for Elementary and Secondary Education upon the recommendation of the chief state school officer for terms of four (4) years with two (2) appointments each year, except that every fourth year there shall be five (5) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms. The State Textbook Commission shall receive assistance in the textbook selection process from professionals and lay citizens who will serve on a contractual basis and be referred to in this chapter as the "textbook reviewers."

(3) The State Textbook Commission shall:

  (a) Select and direct the activities of the textbook reviewers who develop selection criteria and review textbooks and programs;

  (b) Develop selection criteria and evaluation forms with the help of the textbook reviewers to be used in the state level selection process;

  (c) Approve the evaluative criteria and forms used by the commission and textbook reviewers;

  (d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a list of high quality books;

  (e) Select, approve, and publish a list of high quality textbooks.

(4) The textbook reviewers shall be comprised of twelve (12) individuals for the area or areas being considered for adoption. The textbook reviewers shall be approved by the State Textbook Commission based on the recommendation of the chief

state school officer.

(5) The textbook reviewers shall:

(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks;

(b) Review textbooks and programs to determine those of high quality, using evaluative criteria and forms approved by the commission;

(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs; and,

(d) Attend meetings and training sessions as requested by the commission and the Department of Education.

(6) Eight (8) of the appointive members of the State Textbook Commission shall have had not less than five (5) years' teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher education. One (1) member shall be the executive director of the Kentucky Educational Publishers Association or any other legitimate trade association of textbook publishers recognized by the State Board for Elementary and Secondary Education, but shall not ***advocate*** [~~represent~~] any particular publisher. This member shall have no vote but may otherwise participate in the business of the commission. Two (2) members shall be lay citizens. In recommending the members of the State Textbook Commission the chief state school officer shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment.

(7) Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels primary through grade twelve (12), with experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks. Three (3) reviewers shall be parents of children currently enrolled in public schools in Kentucky.

(8) Members of the State Textbook Commission, except the trade association member, shall receive fifty ($50) dollars per day and reimbursement for their actual expenses while attending commission meetings. Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the chief state school officer. Textbook reviewers shall be hired through a personal service contract and remuneration shall not exceed a maximum of seven-hundred and fifty ($750) dollars annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer or commission meetings.

(9) The meetings of the State Textbook Commission shall be open to the public and shall be held at least once every quarter and notice of such meeting shall be given in accordance with KRS 424.110 to 424.210.

(10) Not later than May 1 each year the chief state school officer shall call the State Textbook Commission into session. The members of the State Textbook Commission shall elect one (1) of its voting members as chairman and shall adopt administrative regulations for the procedure of the commission. The chief state school officer shall be the secretary of the commission."; and

On page 2, line 18, after "Section", by changing "3" to "4".

The Senate Floor Amendment No. 2 to **HB 67** is as follows:

On page 1, line 11, by deleting all underlined language, brackets, and strikethroughs; and

On page 1, line 15, after "school", by adding "***and approved by the local board***"; and

On page 1, line 21, after "district.", by adding "***A local board may reject the plan if it lacks educational merit or if the council has insufficient funds to support the plan.***"

On page 1, lines 21 and 22, by deleting the brackets and strikethroughs.

Representative Moberly moved that the House refuse to concur in Senate Committee Amendment No. 1 to **HB 67**. Agreed.

Representative Moberly moved that the House refuse to concur in Senate Floor Amendment No. 2 to **HB 67**. Agreed.

HB 900, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 900** is as follows:

On page 1 line 7, after "***departments;***" delete "***state institutions of higher education;***" and

On page 1 line 10, delete "***and,***" and

On page 1 line 13, after "***Commission***" by inserting "***; and upon written request of presidents, state institutions of higher education***" and

On page 2 line 1, delete "***For***" and

On page 2 lines 2 through 5 delete in their entirety.

Representative Nesler moved that the House concur in Senate Committee Amendment No. 1 to **HB 900**. Agreed.

Representative Nesler moved that **HB 900**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 30, 1994 roll call on **HB 900** - Appendix)

HB 900, as amended by the Senate, was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 900**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 207, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 207** is as follows:

HB 207, AN ACT relating to the treatment of the mentally ill.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Human Resources;

(4) ***"Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;***

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing in-patient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6)[~~(5)~~] "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, approved by the Kentucky Cabinet for Human Resources as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7)[~~(6)~~] "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8)[~~(7)~~] "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve ***the individual's*** [~~his~~] level of functioning, consistent with accepted professional practice in the least confining setting available;

(9)[~~(8)~~] "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of ***the person's*** [~~his~~] affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(10)[~~(9)~~] "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter;

(11)[~~(10)~~] "Petitioner" means a person who institutes a proceeding under this chapter;

(12)[~~(11)~~] "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of [~~his~~] official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of [~~his~~] official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program; or

(e) A certified social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work [~~following certification~~] and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(13)[~~(12)~~] "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14)[~~(13)~~] "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15)[~~(14)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

Section 2. KRS 202A.028 is amended to read as follows:

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, [~~if the hospital to be utilized is one operated by the cabinet,~~] the qualified mental health professional shall be a staff member of a regional community mental ***health*** or mental retardation program.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further ***held*** [~~detained~~] under the applicable provisions of this chapter.

(3) Any person admitted to ***a*** [~~the~~] hospital under subsection (1) of this section or ***transferred to a hospital while ordered hospitalized*** [~~released~~] under subsection ***(1)*** [~~(2)~~] of this section shall be transported [~~to and~~] from ***the*** [~~such~~] person's home county by the sheriff of that county ***or other peace officer as ordered by the court. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet, pursuant to KRS Chapter 13A***.

(4) ***Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person. The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation issued by the cabinet pursuant to KRS Chapter 13A*** [~~A person who has been detained under this section shall not remain in jail in excess of forty-eight (48) hours pending evaluation and transportation to the hospital~~].

(5) No person who has been held under subsection (1) of this section shall be held in jail pending evaluation and transportation to the hospital.

Section 3. KRS 202A.041 is amended to read as follows:

(1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained shall ***take the individual into custody and transport the individual***

without unnecessary delay to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation to be conducted by a qualified mental health professional. Upon transport of the person to the hospital or psychiatric facility, the peace officer shall provide written documentation which describes the behavior of the person which caused the peace officer to take the person into custody. If, after evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization, the person shall be released immediately and transported back to the person's home county by an appropriate means of transportation as provided in KRS 202A.101. If, after evaluation, the qualified mental health professional finds that the person meets the criteria for involuntary hospitalization, appropriate proceedings under this chapter shall be initiated. The person may be held pending certification by a qualified mental health professional and implementation of procedures as provided in KRS 202A.028, 202A.031, or 202A.051 for a period not to exceed eighteen (18) hours.

(2) ***If, after the evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization and the peace officer has probable cause to believe that the person has committed a criminal offense, the peace officer may swear out a warrant and take the arrested person without unnecessary delay before a judge*** [~~detain that person without a warrant. The peace officer shall, if no other party can be found, swear out a warrant and take the arrested person without unnecessary delay before a judge. Only in exceptional cases should the delay exceed twelve (12) hours. The judge shall release the individual if no warrant has been taken out. The judge shall, unless either the court or one (1) of the parties objects, implement the procedures as provided in KRS 202A.028 and order the person to be examined without unnecessary delay by a qualified mental health professional. Following that, the procedures as provided in KRS 202A.028 shall be carried out. Otherwise, the court shall order the person arrested to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom shall be a physician. The qualified mental health professionals shall certify to the court, within twenty-four (24) hours of the examination, their findings and opinions as to whether the person should be involuntarily hospitalized.~~

~~(2) If the criteria for involuntary hospitalization are certified by two (2) qualified mental health professionals, the court shall set a preliminary hearing within six (6) days from the date of arrest (excluding weekends and holidays) to determine if there is probable cause to believe the person should be involuntarily hospitalized.~~

~~(3) Prior to the preliminary hearing, the court shall notify the respondent, his legal guardian, if any and if known, and his spouse, parents, or nearest known relative or friend concerning the involuntary hospitalization proceedings and the date and purpose of the preliminary hearing; and the name, address and telephone number of the attorney appointed to represent the respondent.~~

~~(4) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the person should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of the arrest to determine if the person should be involuntarily hospitalized for a period of sixty (60) days.~~

~~(5) Prior to the final hearing, the county attorney shall file in the record and serve a copy thereof upon the respondent, a statement setting forth the alleged factual reasons or basis upon which the Commonwealth intends to rely in seeking the involuntary hospitalization of the respondent. The required statement shall be served upon the respondent at the earliest practical time, in any event, sufficiently in advance of the final hearing to permit preparation for the hearing by respondent.~~

~~(6) If upon completion of the final hearing, the court finds the person should be involuntarily hospitalized, the court shall order the person hospitalized in a hospital where treatment is available for a period not to exceed sixty (60) consecutive days from the date of the court order~~].

Section 4. KRS 202A.051 is amended to read as follows:

(1) Proceedings for sixty (60) days or three hundred sixty (360) days ***of*** involuntary hospitalization of an individual shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a qualified mental health professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend***,*** or guardian of the individual concerning whom the petition is filed***, or any other interested person***.

(4) The petition shall set forth:

  (a) Petitioner's relationship to the respondent;

  (b) Respondent's name, residence***,*** and current location, if known;

  (c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

  (d) The name and residence of respondent's husband or wife, if any and if known;

  (e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that ***the*** [~~such~~] person is unknown;

  (f) Petitioner's belief, including the factual basis therefor, that the respondent is mentally ill and presents a danger or threat of danger to self, family or others if not restrained; and

(g) If the petition seeks a three hundred sixty (360) day involuntary hospitalization of the respondent, the petition shall further set forth that the respondent has been hospitalized in a hospital or a forensic psychiatric facility for a period of thirty (30) days under the provisions of this chapter or KRS Chapter 504 within the preceding six (6) months.

(5) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with ***the*** [~~such~~] examination.

(6) If after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall, unless either the court or one (1) of the parties objects, implement the procedures provided in KRS 202A.028 and order the individual to be examined without unnecessary delay by a qualified mental health professional. ***If the person is not being held under the provisions of this chapter, the court may order that the sheriff of the county or other peace officer transport the person to a hospital or psychiatric facility designated by the cabinet for the purpose of the evaluation. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to a hospital or psychiatric facility.*** Following that, the procedures as set forth in KRS 202A.028 shall be carried out. Otherwise, the court shall:

(a) Set a date for a preliminary hearing ***within six (6) days from the date of holding the person under the provisions of this section (excluding holidays and weekends) to determine if there is probable cause to believe the person should be involuntarily hospitalized;***

(b) Notify the respondent, ***the*** [~~his~~] legal guardian, if any, and if known, and ***the*** [~~his~~] spouse, parents, or nearest relative or friend ***of the respondent*** concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address***,*** and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall certify within twenty-four (24) hours (excluding weekends and holidays) their findings.

(7) (a) If the respondent is being presently ***held*** [~~detained~~] under the provisions of this chapter, the court may order further ***holding*** [~~detention~~] of the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not being presently ***held*** [~~detained~~] under the provisions of this chapter, the court may ***order that the sheriff of the county or a peace officer transport the respondent to a hospital or a psychiatric facility designated by the cabinet so*** [~~issue a warrant for the arrest of the respondent commanding therein~~] that the respondent ***shall*** be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. ***The sheriff or other peace officer may authorize, upon agreement of a person authorized by the peace officer, the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to a hospital or psychiatric facility.***

(8) When the court is authorized to issue ***an order that the respondent be transported to a hospital or psychiatric facility*** [~~a warrant for the arrest of the respondent~~], the court may, in its discretion, issue a summons. A summons so issued shall be directed to the respondent, shall command the respondent to appear at a time and place therein specified where the respondent shall be there examined by two (2) qualified mental health professionals, at least one (1) of whom is a physician, and shall command the respondent's appearance at the preliminary hearing. If a respondent who has been summoned fails to appear for such examination or at the preliminary hearing, ***the court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation*** [~~a warrant may then be issued~~].

(9) If upon completion of the preliminary hearing, the court finds there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall order a final hearing ***within twenty-one (21) days from the date of holding the respondent under the provisions of this section*** to determine if the respondent should be involuntarily hospitalized.

(10) If the court finds there is no probable cause, the proceedings against the respondent shall be dismissed, and the respondent shall be released from any ***holding*** [~~detention~~].

(11) If upon completion of the final hearing, the court finds the respondent should be involuntarily hospitalized, the court shall order the respondent hospitalized in a hospital for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition.

Section 5. KRS 202A.071 is amended to read as follows:

(1) The preliminary hearing shall be held not later than six (6) days (excluding weekends and holidays) from the time of respondent's ***holding*** [~~detention~~] under these proceedings. If the respondent is not ***held*** [~~detained~~] under these proceedings, the preliminary hearing shall be held not later than six (6) days (excluding weekends and holidays) from the

time of the examination of the respondent.

(2) The final hearing shall be held within twenty-one (21) days of the date of the ***holding*** [~~detention~~] or from the date of the examination, if not ***held*** [~~detained~~].

Section 6. KRS 202A.081 is amended to read as follows:

(1) Following the preliminary hearing but prior to the completion of the final hearing, the court may order the person ***held*** [~~detained in jail, or~~] in a hospital approved by the ***cabinet*** [~~secretary~~] for such purpose for the committing judicial district, or released, upon application and agreement of the parties, for the purpose of community-based outpatient treatment. ***No person held under this section shall be held in jail unless criminal charges are also pending*** [~~A person detained in jail under this section shall be detained therein no more than forty-eight (48) hours~~].

(2) A hospital shall discharge a patient there ***held*** [~~detained~~] and notify the court and attorneys of record if any authorized staff physician determines that the patient no longer meets the criteria for involuntary hospitalization.

(3) If a patient is discharged by the hospital pursuant to subsection (2) of this section, then the proceedings against the patient shall be dismissed.

(4) The release of the person pursuant to subsection (1) of this section for the purpose of community-based outpatient treatment does not terminate the proceedings against the person, and the court ordering such release may order the immediate ***holding*** [~~detention~~] of the person at any time with or without notice if the court believes from an affidavit filed with the court that it is to the best interest of the person or others that the person be ***held*** [~~detained~~] pending the final hearing, which shall be held within twenty-one (21) days of the person's further ***holding*** [~~detention~~].

(5) If the person is released pursuant to subsection (1) of this section for the purpose of community-based outpatient treatment, the final hearing may be continued for a period not to exceed sixty (60) days if a provider of outpatient care accepts the respondent for specified outpatient treatment. Community-based outpatient treatment may be ordered for an additional period not to exceed sixty (60) days upon application and agreement of the parties.

Section 7. KRS 202A.101 is amended to read as follows:

(1) The court which orders any person to ***the receiving*** [~~a~~] hospital ***or psychiatric facility***, under the provisions of this chapter, shall at once notify the ***receiving hospital or psychiatric facility*** [~~cabinet~~] that such order has been made, advising of the sex and condition of the person.

(2) After the ***facility*** [~~cabinet~~] has been so notified, the court shall order the sheriff of the county ***or other peace officer*** to transport the patient within forty-eight (48) hours (excluding weekends and holidays) from the county in which the person is located to the hospital ***or psychiatric facility*** designated by the cabinet. ***The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital*** [~~The actual traveling expenses of persons transporting the patient to the institution shall be paid by the cabinet. Each female committed to an institution shall be accompanied by a female attendant, unless accompanied by her mother, father, sister, brother, husband, daughter, or son~~].

(3) The transportation costs of transporting a person to a hospital or psychiatric facility, when performed by a peace officer, an ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with administrative regulation promulgated by the cabinet under the provisions of KRS Chapter 13A.

(4) In returning any patient to the county from which ***the patient*** [~~he~~] is sent, the ***transportation*** cost of ***the sheriff or other peace officer, the ambulance service, or the other agency on contract with the cabinet transporting the patient*** [~~returning him~~] shall be paid ***as provided in Section 2(4) of this Act*** [~~in the same manner~~], when necessary.

(5)[~~(4)~~] Whenever an individual is involuntarily hospitalized by a court order the patient shall be transported to the hospital designated by the cabinet and accompanied by the following documents:

(a) A copy of the petition for involuntary hospitalization, unless hospitalization takes place pursuant to KRS 202A.041;

(b) The certificate of qualified mental health professionals; and

(c) The order of involuntary hospitalization.

(6)[~~(5)~~] The hospital may refuse to receive any person who has been ordered to be involuntarily hospitalized by a court order if the papers presented with such person at the hospital do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary hospitalization as required by this chapter.

Section 8. KRS 202A.141 is amended to read as follows:

(1) Hospitals ordered to receive an involuntarily hospitalized person shall have standing to petition the District Court for any necessary clarification or modification of orders or judgments entered in proceedings under this chapter and to appeal to the Circuit Court from final judgments or orders entered in proceedings which have not complied with the provisions of this chapter. A copy shall be sent to the involuntarily hospitalized person and the person's attorney of record, if any, of whatever pleadings are filed by the hospital.

(2) Appeals from the final orders or judgments of the District Court made and entered in proceedings under this chapter shall be taken in the same manner as other appeals from District Court to Circuit Court. This appeal shall be advanced on the Circuit Court docket without motion or notice.

SECTION 9. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

No person held under the provisions of this chapter shall be detained in jail unless criminal charges are also pending. No peace officer or any other person shall place criminal charges against a person who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the person to a hospital or psychiatric facility.

SECTION 10. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

No public or private hospital, other than a state operated or contracted mental hospital or institution, shall be required to provide services under Sections 1 to 21 of this Act unless the hospital agrees to provide the services. Any hospital shall make every reasonable attempt to cooperate with the implementation of Sections 1 to 21 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Each public or private hospital, other than a state operated or contracted mental hospital or institution, which provides services under Sections 1 to 21 of this Act shall be paid for the services at the same rates the hospital negotiates with the Department for Mental Health and Mental Retardation Services or the regional community mental health and mental retardation program.

Section 12. KRS 202B.170 is amended to read as follows:

(1) Following the preliminary hearing but prior to the completion of the final hearing, the court may order the respondent to reside in an ICF/MR approved by the secretary for that purpose for the committing judicial district in a community program approved by the secretary ***or***~~[,]~~ in a hospital~~[, or in jail for a period not to exceed forty-eight (48) hours if no other alternative exists]~~. The respondent may be released, upon application and agreement of the parties, for the purpose of community-based outpatient treatment.

(2) A physician of an ICF/MR or a hospital shall discharge a respondent residing therein and notify the court and attorneys of record, if the interdisciplinary team of the ICF/MR or an authorized staff physician of the hospital determines that the respondent no longer meets the criteria for involuntary admission.

(3) If a respondent is discharged by the ICF/MR or hospital pursuant to subsection (2) of this section, the proceedings against the respondent shall be dismissed.

Section 13. KRS 202B.200 is amended to read as follows:

(1) The court which orders any person to an ICF/MR under the provisions of this chapter, shall at once notify the cabinet that the order has been made, advising of the sex and condition of the person.

(2) The ICF/MR may refuse to receive any person who has been ordered to be involuntarily admitted by a court order if appropriate programs and space are not available or the papers presented with the person at the ICF/MR do not comply with the provisions of this chapter or if it does not receive notification of the order of involuntary admission as required by this chapter.

(3) After the cabinet has been so notified, the court may order the sheriff of the county to transport the person ~~[within forty-eight (48) hours, excluding weekends and holidays,]~~ from the county in which the person is located to the ICF/MR designated by the cabinet. The actual traveling expenses of persons transporting the person to the institution shall be paid by the cabinet. Each female admitted to an ICF/MR shall be accompanied by a female attendant, unless accompanied by her mother, father, sister, brother, husband, daughter, or son.

(4) In returning any person to the county from which that person is sent, the cost of returning the person shall be paid in the same manner, when necessary.

(5) If a person is involuntarily admitted by a court order, the person shall be transported to the ICF/MR designated by the cabinet and accompanied by the following documents:

 (a) A copy of the petition for involuntary admission;

 (b) The certificate of qualified mental retardation professionals; and

 (c) The order of involuntary admission.

SECTION 14. A NEW SECTION OF KRS CHAPTER 504 IS CREATED TO READ AS FOLLOWS:

A forensic psychiatric facility or psychiatric facility as those terms are defined in Section 1 of this Act shall have standing to petition the court for any necessary clarification or modification of orders or judgments entered in proceedings under this chapter and to appeal from final orders or judgments entered in proceedings which have not complied with the provisions of this chapter. A copy shall be sent to the mentally ill or mentally retarded person who has been charged with or convicted of a felony and to the person's attorney of record, if any, of whatever pleadings are filed by the forensic psychiatric facility or psychiatric facility.

Section 15. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court;

(13) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Department" means the Department for Social Services;

(15) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced

by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(31) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33) "Parent" means the biological or adoptive mother or father of a child;

(34) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36) "Physical injury" means substantial physical pain or any impairment of physical condition;

(37) "Public offense action" means an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense;

(38) "Qualified mental health professional" means:

  (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of ~~[his]~~ official duties;

  (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of ~~[his]~~ official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

  (c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

  (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the

Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work ~~[following certification]~~ and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42) "Secretary" means the secretary of the Cabinet for Human Resources;

(43) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 640 and who is subsequently convicted in Circuit Court.

Section 16. KRS 645.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

(1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;

(2) "Danger to ***self*** ~~[himself]~~ or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to ***self*** ~~[himself]~~ or others, as evidenced by recent threats or overt acts, including acts by which ***the child*** ~~[he]~~ deprives ***self*** ~~[himself]~~ or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to ***self*** ~~[himself]~~, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;

(3) "Hospital" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;

(4) "Least restrictive alternative" means the treatment and conditions of treatment for a child which, separately and in combination:

(a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and

(b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on ***the child's*** [~~his~~] prior outpatient treatment, that ***the child*** [~~he~~] will benefit from outpatient treatment;

(5) "Mental health ***facility*** [~~care program~~]" means a ***residential or*** nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavioral problems;

(6) "Mental health group home" means a community-based facility established to serve not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of a residential treatment facility or a hospital; and

(7) "Mentally ill child" means that considering the child's age and development, ***the child*** [~~he~~] has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of ***the child's*** [~~his~~] affairs and social relations, ***the child's*** [~~his~~] behavior is maladaptive or ***the child*** [~~he~~] exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

Section 17. KRS 645.120 is amended to read as follows:

(1) If, as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, a peace officer or any interested person may either take the child to a hospital, ***mental health facility*** [~~secure juvenile detention facility, juvenile holding facility~~], or another less restrictive alternative or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may place a child up to twenty-four (24) hours, excluding weekends and holidays, in a ***hospital or*** mental health facility[~~, if one (1) is available, or if such facility is not available, secure juvenile detention facility, juvenile holding facility~~] or another less restrictive alternative. The peace officer shall notify the court designated worker of the child's placement[~~, unless he takes the child to a hospital~~]. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital. ***No child held under this section shall be held in a secure juvenile detention facility or juvenile holding facility unless a status offense action or public offense action is also pending.***

(2) On the basis of a prompt examination and any other available information concerning a child who is present at or presented at a hospital, an authorized staff physician shall determine within twenty-four (24) hours if the child needs immediate hospitalization after which the child shall be released within seventy-two (72) hours unless ***the child*** [~~he~~] is held pursuant to other provisions of this chapter.

(a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;

(b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, ***the physician*** [~~he~~] shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and

(c) If the authorized staff physician determines the child does not need immediate hospitalization, ***the physician*** [~~he~~] shall release the child to a parent, person exercising custodial control or supervision***,*** or an agency having custody of the child and make whatever recommendations or referrals ***the physician*** [~~he~~] deems appropriate.

(3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within twenty-four (24) hours of the filing, exclusive of weekends and holidays, the court shall on an ex parte basis, which may be by telephone:

(a) Deny the petition; or

(b) Issue an order authorizing a peace officer to transport the child to a designated hospital ***or mental health facility*** for evaluation for emergency hospitalization, at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. If the child is committed to the cabinet or will be treated by the cabinet, the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. ***The peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the child to a hospital or mental health facility.*** The cabinet shall pay the ***transportation costs*** [~~actual traveling expenses~~] of the child and the official transporting ***the child,*** [~~him~~] both to and from the designated hospital ***or mental health facility, in accordance with an administrative regulation promulgated under KRS Chapter 13A. If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization, the child shall be released immediately and transported back to the child's home***

county by an appropriate means of transportation.

(4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and holidays, unless a certification petition is filed before the seven (7) days expire.

[~~(5) If it appears that a child committed to the cabinet is mentally ill, the cabinet may use state mental hospital facilities or other resources for observation of mental conditions. This period of observation shall not exceed thirty (30) days. If a qualified mental health professional not employed by the cabinet finds that the child does not meet the definition of a "mentally ill child" under KRS 645.020(7), the child shall be discharged. During the thirty (30) days, a child who is at least sixteen (16) years of age may apply for admission as a voluntary patient. During the thirty (30) days, voluntary admission of a child who is under sixteen (16) years of age may be applied for by a parent, physician or other person exercising custodial control or supervision. After thirty (30) days, the child shall be removed or a certification petition shall be filed under this chapter.~~]

SECTION 18. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

(1) No child held under the provisions of this chapter shall be held in a secure juvenile detention facility or juvenile holding facility unless a status offense action or public offense action is also pending. No peace officer or any other person shall bring a status offense action or a public offense action against a child who is mentally ill and in need of hospitalization pursuant to this chapter solely or primarily for the purpose of avoiding transporting the child to a hospital, mental health facility, or other less restrictive alternative.

(2) If, after evaluation, the qualified mental health professional finds that the child does not meet the criteria for involuntary hospitalization and the peace officer has reason to believe that the child has committed a status offense or public offense, the peace officer may proceed in accordance with KRS 610.190 to 610.290.

Section 19. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the jury. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for Human Resources who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the Cabinet for Human Resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011***(12)***[~~(11)~~]. If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

SECTION 20. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

The cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A in order to carry out the provisions of this chapter.

SECTION 21. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

All individuals transporting or holding persons under Chapters 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for Human Resources shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

Section 22. For the purpose of assuring the most appropriate level of care for the mentally ill, there shall be established fourteen (14) crisis stabilization units, one (1) in each community mental health center licensed pursuant to KRS Chapter 216B, and for this purpose there is appropriated from the General Fund $3,865,500 to the Department for Mental Health and Mental Retardation Services and $1,542,100 to the Department of Medicaid Services in Fiscal Year 1995, and $5,304,900 to the Department for Mental Health and Mental Retardation Services and $1,058,500 to the Department of Medicaid Services in Fiscal Year 1996.

Representative Lear moved that the House refuse to concur the in Senate Committee Substitute to **HB 207**. Agreed.

HB 488, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 488** is as follows:

On page 9, line 24, by deleting "March 16" and inserting "April 16" in lieu thereof.

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 488**. Agreed.

Representative Long moved that **HB 488**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 30, 1994 roll call on **HB 488** - Appendix)

HB 488, as amended by the Senate, was passed and the title agreed to.

Senate Message

SB 171 returned with the following message: The Senate has refused to concur in the House Committee Substitute, House Floor Amendment No. 1 and House Committee Title Amendment to **SB 171** and respectfully returns it with the request that this Honorable recede from the Committee Substitute and Amendments.

SB 214 returned with the following message: The Senate has refused to concur in House Floor Amendment No. 2 to **SB 214** and respectfully returns it with the request that this Honorable Body recede from the Amendment.

SB 277 returned with the following message: The Senate has refused to concur in the House Committee Substitute and House Floor Amendment No. 1 to **SB 277** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendment. (Time: 11:35 a.m.)

Orders of the Day (Continued)

HB 851, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 851** is as follows:

On page 1, following line 14, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed to prohibit an officer or public servant employed by an agency that is privatized from accepting employment from the person or business which is operating that agency."

The Senate Committee Amendment No. 2 to **HB 851** is as follows:

On page 1, following line 14, by inserting:

"Section 2. KRS 11A.040 is amended to read as follows:

(1) No public servant, in order to further his own economic interests, or those of any other person, shall knowingly disclose or use confidential information acquired in the course of his official duties.

(2) No public servant shall knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) No public servant shall knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by any state agency. This provision shall not apply to a contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain or to agreements which may directly or indirectly involve public funds disbursed through entitlement programs.

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) No present or former ***officer or*** public servant ***listed in KRS 11A.010 (9)(a) to (i)*** shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during ***the last thirty-six (36) months of*** his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved ***during the last thirty-six (36) months of his tenure*** in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers***, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs***.

(7) A former public servant shall not act as a lobbyist or lobbyist's principal for a period of one (1) year after the latter of:

  (a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(8) A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) Without the approval of the commission, no public servant shall accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds. The commission shall promulgate administrative regulations to establish a procedure for the approval of outside employment of a public servant, including a requirement that the public servant and his appointing authority state in writing that the public servant is not in a position to influence any agency decision relating to the outside employer."

Representative Bentley moved that the House concur in Senate Committee Amendment No. 1 to **HB 851**. Agreed.

Representative Bentley moved that the House concur in Senate Committee Amendment No. 2 to **HB 851**. Agreed.

Representative Bentley moved that **HB 851**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See March 30, 1994 roll call on **HB 851** - Appendix)

HB 851, as amended by the Senate, was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 851**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 864, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 864** is as follows:

HB 864, AN ACT relating to the Department of State Police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.040 is amended to read as follows:

(1) The department shall consist of the commissioner and the number of officers and civilians, and shall be organized in the manner as the commissioner from time to time determines.

(2) All persons appointed as officers shall at the time of their appointment ~~[be]~~:

(a) ***Be*** not less than twenty-one (21) nor more than thirty-one (31) years of age;

(b) ***Be*** of good moral character, and in good health;

(c) ***Be*** citizens of the United States and residents of the Commonwealth; and

(d) ***Possess a minimum of sixty (60) hours of credit, or an associate degree, from an accredited college or university, or be a*** high school ***graduate with at least two (2) years' experience in the military or in law enforcement*** ~~[graduates, or possess an education equivalent thereto. To meet the educational requirements, credit shall be given for experience in police administration or law enforcement]~~.

(3) The commissioner shall prescribe minimum physical requirements for appointment as an officer of the department, and shall conduct such tests and require such physical examinations as deemed necessary to determine the fitness and qualification of each applicant. All other qualifications being equal, preference shall be given to veterans of the Armed Forces of the United States in time of war, who were honorably discharged.

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 864**. Agreed.

Representative Stumbo moved that **HB 864**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 30, 1994 roll call on **HB 864** - Appendix)

HB 864, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 864**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 398, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 398** is as follows:

On page 3, after line 18, by adding:

"Section 3. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) [~~It is recommended that~~] The membership of the commission ***shall*** include:

(a) Two (2) volunteer ***firefighters*** [~~firemen~~], neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer ***firefighter*** [~~fireman~~];

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed [~~and practicing~~] physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) [~~(f)~~] One (1) teacher or administrator ***representing the fire and rescue training service of the Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet*** [~~of vocational education~~];

(h) [~~(g)~~] One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) [~~(h)~~] One (1) mayor of a Kentucky city;

(j) [~~(i)~~] One (1) county judge/executive;

(k) [~~(j)~~] One (1) representative of Kentucky industry or business enterprise; and

(l) [~~(k)~~] One (1) representative of the general public.

The ***commissioner of the Department for Adult and Technical Education*** [~~chief state school officer~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years***.*** [~~, provided, however, that of the members first appointed, five (5) shall be appointed for a term of two (2) years, four (4) for a term of three (3) years, and four (4) for a term of four (4) years. After July 15, 1980,~~] Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.".

Representative Damron moved that the House concur in Senate Floor Amendment No. 1 to **HB 398**. Agreed.

Representative Damron moved that **HB 398**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 81, Nays 6. (See March 30, 1994 roll call on **HB 398** - Appendix)

HB 398, as amended by the Senate, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 398**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 402, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 402** is as follows:

On page 2, line 3, by deleting "***one (1) of the at-large members***" and inserting in lieu thereof "***the representative of the Attorney General's Office***".

Representative Brown moved that the House concur in Senate Committee Amendment No. 1 to **HB 402**. Agreed.

Representative Brown moved that **HB 402**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 60, Nays 26. (See March 30, 1994 roll call on **HB 402** - Appendix)

HB 402, as amended by the Senate, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 402**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 628, with Senate Committee Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 628** is as follows:

On page 1, line 3, by deleting "***3***" and inserting in lieu thereof "***4***";

On page 2, line 1, after "***employment in a***" by inserting the following: "***nursing facility or in a***";

On page 2, line 9, before the underlined period by inserting the following: "***and shall not exceed five dollars ($5) per application***";

And on page 2, after line 9, by inserting the following new Section:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

No nursing facility shall knowingly employ a person in a position which involves providing direct services to a nursing facility resident if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime. A facility may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult. Each nursing facility shall request all conviction information from the Justice Cabinet for any applicant for employment pursuant to Section 3 of this Act. The nursing facility may temporarily employ an applicant pending the receipt of the conviction information.".

The Senate Floor Amendment No. 2 to **HB 628** is as follows:

On page 1, line 4, after the word "***offense***" by inserting the following:

"***related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime***" and

on page 1, line 16, after the word "***felony***" by inserting the following:

"***offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime***".

The Senate Floor Amendment No. 3 to **HB 628** is as follows:

On page 2, after line 9, by inserting the following new section:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The Kentucky Senior Games Program is hereby created within the Department for Social Services of the Cabinet for Human Resources. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.".

The Senate Floor Amendment No. 4 Title to **HB 628** is as follows:

"AN ACT relating to senior citizens."

Representative Palumbo moved that the House concur in Senate Committee Amendment No. 1 to **HB 628**. Agreed.

Representative Palumbo moved that the House concur in Senate Floor Amendment No. 2 to **HB 628**. Agreed.

Representative Palumbo moved that the House concur in Senate Floor Amendment No. 3 to **HB 628**. Agreed.

Representative Palumbo moved that the House concur in Senate Floor Amendment No. 4 Title to **HB 628**. Agreed.

Representative Palumbo moved that **HB 628**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 30, 1994 roll call on **HB 628** - Appendix)

HB 628, as amended by the Senate, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 628**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **HCR 99, HCR 100, HCR 101, HCR 102, HCR 103** and **HCR 104**. (Time: 11:45 a.m.)

Orders of the Day (Continued)

HB 517, with Senate Committee Amendments and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 517** is as follows:

On page 1, line 23, by adding thereafter the following:

"Section 2. KRS 6.505 is amended to read as follows:

(1) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530. An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.

(2) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(3) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. ***A legislator who is vested in the Teachers' Retirement System for service as a member as defined in KRS***

161.220(4) may purchase up to five (5) years of service credit for service to an institution defined in KRS 161.220(4) while he was contributing to the Legislators' Retirement Plan. The legislator shall pay to the Teachers' Retirement System the employee contribution on the annual compensation for each year purchased, plus interest as determined by the Teachers' Retirement System. These contributions shall not be "picked up" pursuant to KRS 161.540(2). ~~[No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.]~~

(4) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees' Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552.".

The Senate Committee Amendment No. 2 to **HB 517** is as follows:

On page 1, after line 23, by adding the following:

"Section 2. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852, a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service may elect to receive an annual retirement allowance payable monthly or less frequently, as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or

(d) The member has thirty (30) or more years of service at least fifteen (15) of which are current service, or the member of the Kentucky Employees Retirement System or the County Employees Retirement System has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service; or

(e) ***The member of the Kentucky Employees Retirement System has, at least, twenty-six (26) years of service credit, at least sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government; or***

(f) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

Section 3. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight

(8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but a member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education or the Higher Education Assistance Authority, may count the vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. The credit from a Kentucky institution of higher education or the Higher Education Assistance Authority shall not be used to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(c) There shall be no reduction in the retirement allowance of the member who has twenty-six (26) years of service, sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government who has retired under the provisions of KRS 61.559(2)(e).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment."

The Senate Floor Amendment No. 3 to **HB 517** is as follows:

On page 1, line 23, by adding thereafter:

"Section 2. While KRS 78.540 states that employees who are simultaneously contributing to another public retirement fund within Kentucky, other than those administered by the Kentucky Retirement Systems, cannot also be members of the County Employees Retirement System, the County Employees Retirement System has accepted employee and employer contributions made in good faith by and for employees participating in the Kentucky Teachers' Retirement System. Because contributions were made in good faith and employees have planned for the eventual receipt of County Employees Retirement System benefits, the County Employees Retirement System shall accept the employee and employer contributions made prior to the effective date of this Act and shall grant the service credit attributable to these contributions. If members have received a refund of employee contributions and have cashed their checks, they may reinstate their service credit by returning the refunds if the employer also returns any employer contribution refunds.".

The Senate Floor Amendment No. 4 to **HB 517** is as follows:

On page 1, line 16, by inserting "***July***" before "August" and by bracketing and striking through "August"; and

On page 1, after line 23, by adding the following:

"Section 2. Whereas the budget contains moneys for these provisions, based on the state fiscal year, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

The Senate Floor Amendment No. 5 Title to **HB 517** is as follows:

By amending the title to read as follows: "AN ACT relating to retirement and declaring an emergency."

Representative Barrows moved that the House refuse to concur in Senate Committee Amendment No. 1 to **HB 517**. Agreed.

Representative Barrows moved that the House concur in Senate Committee Amendment No. 2 to **HB 517**. Agreed.

Representative Barrows moved that the House concur in Senate Floor Amendment No. 3 to **HB 517**. Agreed.

Representative Barrows moved that the House concur in Senate Floor Amendment No. 4 to **HB 517**. Agreed.

Representative Barrows moved that the House concur in Senate Floor Amendment No. 5 Title to **HB 517**. Agreed.

HB 741, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 741** is as follows:

On page 4, line 4, by deleting, "***two percent (2%)***", and inserting and underlining in lieu thereof, "***four percent (4%)***".

Representative Gray moved that the House refuse to concur in Senate Floor Amendment No. 1 to **HB 741**. Agreed.

HB 798, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 798** is as follows:

On page 1, line 24, by deleting line 24 in its entirety and inserting in lieu thereof the following:

"***Any attorney agreeing to represent a recipient against a third party shall, within ten (10) days of initiating representation, provide written notification to the cabinet. The written notification shall contain the following information:***

(1) The name and address of the recipient's attorney;

(2) The name and medical assistance identification number of the recipient;

(3) The date of the incident creating the claim;

(4) A description of the circumstances involving the claim;

(5) The type of injury, disease, or disability sustained by the recipient; and

(6) The name and address of any third party.";

And on page 2, line 1, by deleting lines 1 and 2 in their entirety;

And on page 2, line 3, by deleting Section 4 in its entirety and by renumbering the remaining section accordingly.

Representative Nunn moved that the House concur in Senate Floor Amendment No. 1 to **HB 798**.

On the roll call that the House concur in Senate Floor Amendment No. 1 to **HB 798**, the vote was **Yeas 45**–Ackerson, Adkins, Allen, Altman, Brown, Bryant, Buis, Burch, Butler, P. Clark, Crenshaw, Curd, Cyrus, DeWeese, Farley, Ford, Fox, Gee, Hampton, Hancock, Harper, Keith, Lewis, Lile, Long, Lyne, Maggard, Mason, McElroy, Mullinix, Napier, Nesler, Noland, Northup, Nunn, Reinhardt, Sanders, Scorsone, Scott, B. Smith, R. Smith, Todd, Treesh, Turner, Zimmerman. **Nays 48**–Adams, Arnold, Ballard, Barrows, Bondurant, Bowling, Bruce, Cave, L. Clark, Clarke, Coleman, Collins, Damron, Donnermeyer, Farrow, French, Gedling, Geveden, Graham, Gray, Hatcher, Heleringer, Jensen, Johnson, Kerr, Lee, Lindsay, Little, Maricle, Marzian, Moberly, Morris, Nelson, Palumbo, Rapier, Rasche, Richards, Ridley, Shacklette, Simpson, Stacy, Stengel, Stumbo, Trapp, Walton, Wayne, Worthington, Yates.

The motion that the House concur in Senate Floor Amendment No. 1 to **HB 798** was rejected.

HB 388, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 388** is as follows:

HB 388, AN ACT relating to the funding of the statewide public advocacy system, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 31.051 is amended to read as follows:

(1) With the exception of the administrative fee contained in subsection (2) of this section, all moneys received by the public advocate from indigent defendants pursuant to KRS Chapter 31 or which are collected by the public advocate pursuant to KRS Chapter 431 shall be credited to the public advocate fund of the county in which the trial is held and shall not be credited to any general account maintained by or for the public advocate. Moneys credited to a county public advocate fund may be used only to support the public advocate program of that county.

(2) Any person provided counsel under the provisions of this chapter shall be assessed at the time of appointment, a nonrefundable forty dollar ($40) administrative fee, payable, at the court's discretion, in a lump sum or in installments. The court may reduce or waive the fee if the person remains in custody or does not have the financial resources to pay the fee. In any case or legal action a needy person shall be assessed a total administrative fee of no more than forty dollars ($40), regardless of the stages of the matter at which the needy person is provided appointed counsel. In the event the defendant fails to pay the fee, the fee shall be deducted from any posted cash bond or shall constitute a lien upon any property which secures the person's bail, regardless of whether the bond is posted by the needy person or another. The failure to pay the fee shall not reduce or in any way affect the rendering of public defender services to the person.

(3) The administrative fee shall be in addition to any other contribution or recoupment assessed by the court pursuant to KRS 31.120 and shall be collected in accordance with that section.

(4) The administrative fees collected pursuant to this subsection (2) shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds shall not lapse.

Section 2. KRS 31.120 is amended to read as follows:

(1) The determination of whether a person covered by KRS 31.110 is a needy person shall be deferred no later than his first appearance in court or in a suit for payment or reimbursement under KRS 31.150, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each step in the proceedings, whether he is a needy person. However, nothing herein shall prevent appointment of counsel at the earliest necessary proceeding at which the person is entitled to counsel, upon declaration by the person that he is needy under the terms of this chapter. In that event, the person involved shall be required to make reimbursement for the representation involved if he later is determined not a needy person under the terms of this chapter. At arraignment, the court shall conduct a nonadversarial hearing to determine whether a person ***who has requested*** [~~for whom~~] a public defender [~~has been appointed~~] is able to pay a partial fee.

(2) In determining whether a person is a needy person and in determining the extent of his, and, in the case of an unemancipated minor under KRS 31.100(3)(c), his custodial parent's or guardian's inability to pay, the court concerned shall consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail, or any other method of release provided in KRS Chapter 431, shall not necessarily prevent him from being a needy person. In each case, the person, and, if an unemancipated minor under KRS 31.100(3)(c) and (d), his custodial parent or guardian, subject to the penalties for perjury, shall certify by affidavit of indigency ***which shall be*** compiled by the pre-trial release officer[~~, where practical~~], as provided under KRS Chapter 431 and Supreme Court Rules or orders promulgated pursuant thereto, the material factors relating to his ability to pay in the form the Supreme Court prescribes.

(3) It shall be prima facie evidence that a person is not indigent or needy within the meaning of this chapter if he and, in the case of an unemancipated minor under KRS 31.100(3)(c) and (d), if his custodial parent or guardian:

- (a) Owns real property in the Commonwealth or without the Commonwealth;
- (b) Is not receiving, or if not receiving is not eligible to receive, public assistance payments at the time the affidavit of indigency is executed;
- (c) Has paid money bail (other than a property bond of another), whether deposited by himself or another, to secure his release from confinement on the present charge of which he stands accused or convicted; or
- (d) Owns more than one (1) motor vehicle.

(4) To the extent that a person covered by KRS 31.110, and, in the case of an unemancipated minor under KRS 31.100(3)(c) and (d), his custodial parent or guardian, is able to provide for an attorney, the other necessary services and facilities of

representation, and court costs, the court shall order payment in an amount determined by the court and may order that the payment be made in a lump sum or by installment payments. The determination shall be made at each stage of the proceedings.

(5) The court shall order all moneys collected pursuant to subsection (4) of this section be paid to the clerk of that court pursuant to the schedule of payment. The clerk shall forward to the Office for Public Advocacy on a monthly basis a copy of all the orders and the moneys collected pursuant thereto with an accounting as to each case.

(6) The affidavit of indigency, to be subscribed and sworn to by the person, and, in the case of an unemancipated minor under KRS 31.100(3)(c), by his custodial parent or guardian, shall be as set out herein:

Commonwealth of Kentucky

County of...............

Affiant........................, being first duly sworn says that he is not now represented by private counsel and that he does not have the money or assets out of which to employ one; that he is indigent and requests the court to appoint counsel.

Affiant states that his income is ....; that he owns the following property:

Description	Value
....	....
....	....
....	.........................;

that he has the following dependents:

Name	Age	Relationship
....	....	....
....	....	....
....	....	.........................;

and that he has the following obligations:

To whom owed	Amount owing
....	....
....	....
....	....

....

Signature of affiant

Subscribed and sworn to before me this .... , day of ...., 19 .....

....

Signature and title of officer
administering the oath

Any persons making false statements in the above affidavit shall be subject to the penalties for perjury under KRS Chapter 523, the maximum penalty for which is five (5) years imprisonment.

Section 3. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010 shall be sentenced to pay a service fee of *two* [~~one~~] hundred [~~fifty~~] dollars *($200)*[~~($150)~~], which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, [~~and~~] treatment and education programs authorized by this chapter*, and the Department of Public Advocacy*.

(4) Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds shall not lapse.

Section 4. KRS 31.185 is amended to read as follows:

(1) Any defending attorney operating under the provisions of this chapter is entitled to use the same state facilities for the evaluation of evidence as are available to the attorney representing the Commonwealth. If he considers their use impractical, the court concerned may authorize the use of private facilities to be paid for on court order by the county.

(2) The fiscal court of each county containing less than ten (10) circuit judges shall annually appropriate twelve and a half ($0.125) cents per capita of the population of the county, as determined by the Council of Local Governments'

most recent population statistics, to a special account to be administered by the Finance and Administration Cabinet to pay court orders entered against counties pursuant to subsection (1) of this section. The funds in this account shall not lapse and shall remain in the special account.

(3) The Finance and Administration Cabinet shall pay all court orders entered pursuant to subsection (1) of this section from the special account until the funds in the account are depleted. If in any given year the special account, including any funds from prior years is depleted and court orders entered against counties pursuant to subsection (1) of this section for that year or any prior year remain unpaid, the Finance and Administration Cabinet shall pay those orders from the Treasury in the same manner in which judgments against the Commonwealth and its agencies are paid.

(4) Only court orders entered after July 15, 1994, shall be payable from the special account administered by the Finance and Administration Cabinet or from the Treasury as provided in subsections (2) and (3) of this section.

(5) Each county with a judicial district containing ten (10) or more Circuit Judges shall be solely liable for any court order entered against it pursuant to subsection (1) of this section.

Section 5. KRS 31.200 is amended to read as follows:

(1) Subject to KRS 31.190, any direct expense, including the cost of a transcript or bystander's bill of exceptions or other substitute for a transcript that is necessarily incurred in representing a needy person under this chapter, is a charge against the county on behalf of which the service is performed***; provided, however, that such a charge shall not exceed the established rate charged by the Commonwealth and its agencies.***

(2) The cost of a transcript or bystander's bill of exceptions or other substitute for a transcript shall be paid from the special account established in KRS 31.185(2) and in accordance with the procedures provided in KRS 31.185(3).

(3)[~~(2)~~] If two (2) or more counties jointly establish an office for public advocacy, the expenses not otherwise allocable among the participating counties under subsection (1) shall be allocated, unless the counties otherwise agree, on the basis of population according to the most recent decennial census.

(4)[~~(3)~~] Expenses incurred in the representation of needy persons confined in a state correctional institution shall be borne by the state Department of Public Advocacy.

Section 6. The funds made available to the trust and agency account established by Sections 1 and 3 of this Act are hereby appropriated for expenditure for the purposes provided for by this Act.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 388** is as follows:

On page 6, line 24, after "***(2)***" insert "***Any direct expense including***"

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 388** is as follows:

On page 5, line 23, following "***county***" to insert "***or legislative body of an urban-county government***".

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 388**. Agreed.

Representative Stumbo moved that the House concur in the Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 388**. Agreed.

Representative Stumbo moved that the House concur in the Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 388**. Agreed.

Representative Stumbo moved that **HB 388** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 80, Nays 11. (See March 30, 1994 roll call on **HB 388** - Appendix)

HB 388, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 388**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 810, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 3 to **HB 810** is as follows:

On page 1, line 12 by changing "***five percent (5%)***" to "***three percent (3%)***".

Representative LeMaster moved that the House concur in Senate Floor Amendment No. 3 to **HB 810**. Agreed.

Representative LeMaster moved that **HB 810**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 51, Nays 36. (See March 30, 1994 roll call on **HB 810** - Appendix)

HB 810, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 810**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 913, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 913** is as follows:

On page 1, beginning with line 1 and continuing to Page 3, line 14, by deleting the contents of the bill in its entirety and inserting in lieu thereof the following:

"Section 1. KRS 67.825 is amended to read as follows:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the citizens of any county, except in a county containing a city of the first class or an urban-county government, may vote to merge all units of city and county government into a charter county form of government ***or to consolidate any agency, subdivision, department, or sub-district providing any services or performing any functions for a city or county***. The merger ***or consolidation*** shall take place only after compliance with the procedures set forth in KRS 67.830.

Section 2. KRS 67.830 is amended to read as follows:

(1) The fiscal court in any county, except in a county containing a city of the first class or an urban-county government, and a majority of all cities within the county may adopt an ordinance to study the question of merging the county government with all other units of local government within the county to form a charter county form of government***, or consolidating any agency, subdivision, department, or sub-district providing any services or performing any functions for a city or county***.

(2) In lieu of the adoption of an ordinance pursuant to subsection (1) of this section, a petition may be filed with the county clerk requesting a referendum be held on the question of [~~merger and~~] the adoption of a charter county form of government ***or the consolidation of any agency, subdivision, department, or sub-district providing any services or performing any functions for a city or county***. The petition shall be signed by ***a number of registered voters equal to*** at least twenty percent (20%) of the number of county residents voting in the preceding regular election.

(3) Within sixty (60) days of the adoption of an ordinance pursuant to subsection (1) of this section, or within sixty (60) days of a petition being filed with the county clerk pursuant to subsection (2) of this section, the fiscal court and the city legislative body of each city within the county shall jointly appoint a commission to study the question of [~~merger and~~] the adoption of a charter county form of government ***or the consolidation of any agency, subdivision, department, or sub-district providing any services or performing any functions for a city or county***. The fiscal court shall determine the size of the membership of the commission which shall be composed of, [~~but~~] not ***less than*** [~~limited to,~~] twenty (20) ***or more than forty (40)*** citizens. The actual appointment of individual members to the commission shall be governed by the following provisions:

(a) The county shall make a number of appointments ***equal to fifty-five percent (55%) of the membership of the commission*** [~~based upon the ratio of the percentage of the population residing in unincorporated areas of the county to the countywide population~~].

(b) Each city located within the county shall join together with other cities of the same classification located within the county for the purpose of making appointments to the commission. Jointly the cities shall make a number of appointments ***equal to forty-five percent (45%) of the membership of the commission*** [~~based upon the ratio of the percentage of the total population residing within that particular class of city within the county to the countywide population~~]. Each class of city within the county shall have a minimum of one (1) representative on the commission.

(c) If there is only one (1) city of a particular classification within a county, the city shall make a number of appointments based upon the ratio of the percentage of the population residing within that city to the countywide population.

(d) The county judge/executive shall serve as a voting member of the commission and preside as its chairman.

(4) The commission shall be funded by the fiscal court and each city within the county in proportion to its ***ratio of membership on the commission*** [~~relative population~~] and shall be responsible for developing a comprehensive plan ***for***

the consolidation of services and functions of cities and the county, or the formation of ***a*** charter county government that shall include, but not be limited to, the following provisions:

(a) A description of the form, structure, functions, powers, and name of the proposed charter county government;

(b) A description of the officers and their powers and duties of the proposed charter county government; and

(c) The procedures by which the original comprehensive plan may be amended.

(5) The comprehensive plan shall be consistent with the provisions of the Constitution of Kentucky and shall be advertised at least ninety (90) days before a regular election at which the voters will be asked to approve or disapprove the adoption of the comprehensive plan.

(6) The votes shall be counted, returns made and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of adopting the comprehensive plan, the county board of election commissioners shall enter the fact of record and the charter county commission shall organize the charter county government ***or the county shall provide for the consolidation of services or functions as provided in the comprehensive plan***.

Section 3. KRS 67.835 is amended to read as follows:

Notwithstanding any contrary provision of the comprehensive plan of a charter county government, the legislative body of a charter county government may defer redistricting of the legislative districts of the body subsequent to each decennial census by the United States Bureau of Census, until after completion of the redistricting of General Assembly seats within the charter county subsequent to the census. The redistricting of charter county government legislative districts [~~hereunder~~] shall be effective for the first regular charter county government primary election scheduled more than one hundred eighty (180) days after completion of ***the*** [~~such~~] redistricting. The redistricting ***shall become*** [~~becomes~~] effective no later than two (2) years after ***the*** release of census data upon which the redistricting is based.

Section 4. KRS 67.840 is amended to read as follows:

Following the adoption and organization of a charter county government***, or the consolidation of services or functions*** pursuant to KRS 67.830, officials designated in the comprehensive plan shall be elected at the next regularly scheduled election at which county officers shall be elected. Upon the election and qualification of officials designated in the comprehensive plan, the charter county government shall immediately become the effective government. All the debts, property, franchises, and rights of the existing county government and of any municipality within the county shall be assumed by the charter county government ***as designated within the comprehensive plan***.

Section 5. KRS 67.845 is amended to read as follows:

The comprehensive plan for merging city and county governments into a charter county government under KRS 67.825 to 67.875 ***may*** [~~shall~~] provide for the corporate dissolution of incorporated cities and special districts within the county [~~whereupon~~]***. If the incorporated cities and special districts within the county are dissolved, the following provisions shall apply***:

(1) For purposes of all state and federal licensing and regulatory laws, statutory entitlement, gifts, grants-in-aid, governmental loan, or other governmental assistance under state or federal laws, rules***,*** or regulations:

(a) The charter county ***may*** [~~shall~~] be deemed a county and***, if so,*** the entire geographic area and population of the charter county shall be considered in calculating and determining the distribution basis for state or federal statutory entitlements, gifts, grants-in-aid, loans, or other forms of governmental assistance;

(b) The charter county government ***may*** [~~shall~~] designate to the appropriate state or federal agency those geographic areas, portions of roads, ***or*** segments of population[~~, or combinations thereof~~] that shall be deemed to constitute rural or urban areas, roads***,*** or population.

(2) The chief executive officer of the charter county government ***may*** [~~shall~~] determine and make the designations ***provided for in this section*** [~~herein~~] following a public hearing. The charter county government shall fix the time and place of the hearing ***and it*** [~~that~~] shall be advertised pursuant to KRS Chapter 424.".

Representative Simpson moved that the House concur in Senate Committee Amendment No. 1 to **HB 913**. Agreed.

Representative Simpson moved that **HB 913**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 75, Nays 6. (See March 30, 1994 roll call on **HB 913** - Appendix)

HB 913, as amended by the Senate, was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 913**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 275, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 275** is as follows:

HB 275, AN ACT relating to survivors of persons killed in the line ~~of~~ duty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, ***constable, corrections officer with the power of a peace officer pursuant to KRS 196.037,*** any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. If death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, ***corrections officer with the power of a peace officer pursuant to KRS 196.037,*** any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, whose death occurs on or after July 1, 1991, as a direct result of an act in the line of duty shall receive a lump-sum payment of fifty thousand dollars ($50,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay twenty thousand dollars ($20,000) to the surviving children; and

(b) Hold thirty thousand dollars ($30,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty.

(4) The Justice Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty.

(5) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, or National Guard retirement or benefit fund established by the federal government or by any state, county, or any municipality.

(6) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 275** is as follows:

On page 1, line 3, to delete "***constable,***"

Representative Lee moved that the House refuse to concur in the Senate Committee Substitute to **HB 275**. Agreed.

Representative Lee moved that the House refuse to concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 275**. Agreed

Representative Stumbo moved that the rules be suspended to allow floor privileges to a former Senator, Georgia Powers. Agreed.

HB 299, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 299** is as follows:

On page 7, line 10, by deleting "***and***"; and

On page 7, line 13, by deleting the underlined period and inserting "***; and***" in lieu thereof; and

On page 7, between lines 13 and 14, by inserting:

"***7. In the case of a request for proposals from bond counsel firms, proposed fees and expenses.***"; and

On page 11, line 26, following "1.", by inserting "***The top-ranked bond counsel firm shall be contacted to confirm its fee proposal in writing.***", and by deleting the remainder of the line; and

On page 11, by deleting line 27 in its entirety; and

On page 12, by deleting lines 1 to 6 in their entirety; and

On page 12, line 7, by deleting "***3.***" and inserting "***2.***" in lieu thereof; following the second "***the***", by inserting "***top-ranked***"; and by deleting "***which has submitted the lowest evaluated fee***"; and

On page 12, line 8, by deleting "***proposal***"; and

On page 12, line 9, by deleting "***lowest evaluated fee proposal***" and inserting "***top-ranked firm***" in lieu thereof; and

On page 12, line 10, following "***firm's***", by inserting "***final***"; and

On page 12, line 11, by deleting "***, if one was required***"; and

On page 12, line 16, by deleting "***4.***", and inserting "***3.***" in lieu thereof; and

On page 12, line 17, by deleting "***, if one is required***"; and

On page 16, line 9, by deleting "***or***"; and

On page 16, line 10, by deleting "***underwriter's counsel business***"; and

On page 16, line 15, by deleting "***or***"; and

On page 16, line 16, by deleting "***underwriter's counsel***"; and

On page 16, line 18, by deleting "***1. In the case of bond counsel,***"; and

On page 16, by deleting lines 23 to 27 in their entirety; and

On page 17, line 1, by deleting "***(a)***"; and by deleting "***an underwriter or***" and inserting "***a***" in lieu thereof; and

On page 17, line 2, by deleting "***an***"; and

On page 17, line 3, by deleting "***underwriter or***"; and

On page 17, by deleting lines 6 to 10 in their entirety; and

On page 17, between lines 10 and 11, by inserting:

"***(3) A firm shall be considered to have its principal place of business located in Kentucky under this section if the firm has a place of business in Kentucky and declares that it has a business nexus in Kentucky for Kentucky income tax purposes.***"; and

On page 17, by deleting lines 13 to 25 in their entirety, and inserting the following in lieu thereof:

"***(1) The office shall establish and maintain a schedule of rates at which underwriters will be reimbursed for fees and expenses of counsel they retain for a bond issuance.***

(2) Employees of the Commonwealth shall be prohibited from directly or indirectly recommending the selection of the underwriter's counsel. This section shall not be deemed to prohibit the creation of a list of qualified firms to assist underwriters in the selection of their counsel or from otherwise making general information regarding law firms available to underwriters.

(3) For each bond issuance, the secretary of the Finance and Administration Cabinet and the executive director shall certify to the Capital Projects and Bond Oversight Committee that neither they, or, to the best of their knowledge, anyone involved in the selection process, attempted to recommend the hiring of any law firm by an underwriter.

(4) If the Capital Projects and Bond Oversight Committee determines that an employee of the Commonwealth has, at the request of a law firm, recommended the selection of an underwriter's counsel relating to a bond issuance in an attempt to exercise influence on the selection process, the committee shall recommend to the secretary of the Finance and Administration Cabinet that the firm be prohibited from serving as bond counsel or underwriter's counsel for a bond issuance for a period of two years, commencing on the date of the determination. The secretary shall follow the recommendation or submit the reasons for not following the recommendation in writing to the committee."

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 299**. Agreed.

Representative Long moved that **HB 299**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 78, Nays 0. (See March 30, 1994 roll call on **HB 299** - Appendix)

HB 299, as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 299**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 459, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 459** is as follows:

HB 459, AN ACT relating to crime, punishment, and corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the Governor may, on behalf of the state and subject to the terms of the treaty, authorize the commissioner of the Department of Corrections to consent to the transfer of offenders and take any other action necessary to initiate the participation of the state in the treaty, upon application of the offender.

Section 2. KRS 196.070 is amended to read as follows:

The commissioner of the Department of Corrections shall:

(1) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Luckett Correctional Complex, the Eastern Kentucky Correctional Complex, ***the Green River Correctional Complex,*** the Western Kentucky Correctional Complex, the Roederer Correctional Complex, and any minimum security correctional institutions established and operated by the department, or any divisions of those institutions, the private prisons as provided by KRS 197.500, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum, and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of prisoners between institutions.

Section 3. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission, or agency of the state government;

(2) "Cabinet" means the Justice Cabinet;

(3) "Department" means Department of Corrections;

(4) "Penitentiaries" includes the state penal institutions for males at Eddyville***,*** ~~[and]~~ LaGrange, ***the Green River Correctional Complex,*** the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established.

(5) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary.

Section 4. KRS 197.025 is amended to read as follows:

(1) KRS 61.884 and 61.878 to the contrary notwithstanding, no person, including any inmate confined in a jail or any facility under the jurisdiction of the department ~~[of Corrections]~~ shall have access to any records ~~[relating to himself, or any inmate, or any other records,]~~ if the disclosure is deemed by the ***commissioner of the department or his designee*** ~~[warden and treatment staff]~~ to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.

(2) The policies and procedures of administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for these policies and procedures shall be conducted in closed sessions.

Section 5. KRS 197.510 is amended to read as follows:

Any contract entered on or after July 15, 1988, between the state and a private provider for the operation and management of an adult correctional facility shall include terms which comply with at least the following:

(1) Unless otherwise provided by KRS 197.505 to 197.525, any adult correctional facility contracted for pursuant to KRS 197.505 shall submit a plan to the department for achieving American Correctional Association standards within five (5)

years, which is appropriate for the specific type of adult correctional facility.

(2) The provisions of KRS Chapter 45A shall apply to any contract or any proposal for a contract authorized by KRS 197.505 to 197.525 for an adult correctional facility.

(3) The adult correctional facility shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the appropriate governing authority. The facility shall have written policies which govern revisions in the budget. The facility shall have a fiscal system which accounts for all income and expenditures on an on-going basis.

(4) The adult correctional facility shall prepare and distribute to its governing authority and appropriate agencies including the department, at a minimum, the following documents: annual budget income and expenditure statements; funding source financial reports; and annual independent audit report.

(5) The adult correctional facility shall have written fiscal policies and procedures adopted by the governing authority which include at a minimum: internal controls; petty cash; bonding; signature control on checks; resident funds; and employee expense reimbursement.

(6) There shall be an annual independent audit of the adult correctional facility. The facility shall have a written policy for inventory control of all property and assets and for purchasing and requisitioning supplies and equipment. The facility shall use a method which documents and authorizes wage payment to employees and consultants.

(7) The private provider shall develop and implement a plan for the dissemination of information about the adult correctional facility to the public, government agencies, and the media. The plan shall be made available to all persons. All documents and records, except financial records, maintained by the private provider shall be deemed public records as defined by KRS 61.870 and be subject to the provisions of KRS 61.872 to 61.884.

(8) The adult correctional facility shall conform to all applicable zoning ordinances and all applicable state and local building codes, including the Kentucky Building Code, 1983 edition and subsequent modifications or replacements thereto.

(9) The adult correctional facility shall comply with all applicable laws and regulations of the local and state government regarding sanitation, food service, safety, and health. Copies of inspections completed by the appropriate authorities shall be sent to the department.

(10) The adult correctional facility shall comply with the provisions of the Life Safety Code, 1983 edition, National Fire Protection Association 101 and the regulations of the state or the local fire safety authority, whichever has primary jurisdiction over the adult correctional facility. Copies of the inspections completed by the appropriate authorities shall be sent to the department.

(11) A minimum of sixty (60) square feet of floor space per resident shall be provided in the sleeping area of the adult correctional facility. Other areas to be provided shall include space and furnishings to accommodate group meetings of the residents, private counseling space with adequate furniture, and a visiting area.

(12) The adult correctional facility shall provide a variety of indoor and outdoor recreational and leisure time activities to include but not be limited to: television, radio, library materials, and recreational facilities. Telephone facilities shall be available on the premises, which are accessible to residents.

(13) The adult correctional facility shall provide a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than ten percent (10%) of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities.

(14) The adult correctional facility shall be staffed twenty-four (24) hours per day seven (7) days per week. The staffing pattern shall be adequate to insure close inmate surveillance and maintenance of security within the facility. The staffing pattern shall address the program, transportation, and security needs of the facility. In determining security need, the proximity of the facility to neighborhood and schools shall be considered.

(15) The adult correctional facility shall have a written personnel policy and employees shall be given a copy. The personnel policies shall include, at a minimum:

(a) Organization chart;

(b) Employment practices and procedures including in-service training and staff developing;

(c) Promotions;

(d) Job qualifications and job descriptions;

(e) Grievance and appeal procedures;

(f) Employee evaluation;

(g) Personnel records;

(h) Benefits;

(i) Holidays;

(j) Leave;

(k) Hours of work;

(l) Salaries (or the base for determining salaries);

(m) Disciplinary procedures;

(n) Termination; and

(o) Resignation.

(16) The adult correctional facility shall maintain written job descriptions and job qualifications for all positions in the facility including: job title, responsibilities of the positions, and required minimum experience and education. An affirmative action program shall be adopted by the governing authority. The correctional facility shall maintain a current, accurate, and confidential personnel record on each employee. The facility shall have written policy and procedures requiring an annual performance evaluation of all employees. This evaluation shall be reviewed and discussed with the employee.

(17) Prior to employment, all employees of the adult correctional facility shall be subject to thorough background investigation to include criminal, medical, and employment history. All security employees of the facility shall be at least twenty-one (21) years of age. The facility shall provide initial orientation for all new employees during the first week of employment. The facility shall comply with all governmental regulatory requirements related to employment and personnel practices. Personnel selection and assignments shall be based on merit.

(18) The administrator of the adult correctional facility shall have a minimum of five (5) years experience in corrections or law enforcement and five (5) years experience in administration. The remaining staff of the facility shall have the same qualifications and training as the staff employed in similar positions in adult correctional facilities operated by the department.

(19) The adult correctional facility shall provide the following services and programs, the extent to which shall be set forth in the contract between the state and the private provider but shall be consistent with the standards of the American Correctional Association:

(a) Health and medical services;

(b) Food services;

(c) Mail, telephone use, and visitation;

(d) Access to legal services and legal materials;

(e) Vocational training;

(f) Educational programs;

(g) Counseling services including personal counseling;

(h) Drug and alcohol counseling; and

(i) Sanitation services.

(20) The adult correctional facility shall have a written fire and emergency plan for the facility which shall be communicated to all employees and inmates and updated, if needed. The facility's written emergency plan shall be conspicuously posted in the facility. The facility staff shall document the conduct of quarterly emergency drills.

(21) The adult correctional facility shall have a written policy restricting the use of physical force to instances of justifiable self-protection, prevention of property damage, and prevention of escapes, and only to the degree necessary. In compliance with applicable laws, the facility shall maintain and make public, written policies and procedures for conducting searches of residents and all areas of the facility, to control contraband and locate missing or stolen property. The facility shall have a written plan to control movement in and out of the facility. The facility shall have written procedures to account for the whereabouts of the residents at all times.

(22) The adult correctional facility shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly. Isolated security spot checks shall be conducted daily. Items considered as contraband or items permitted in the facility shall be clearly defined in the facility's rules.

(23) The adult correctional facility shall report all suspected felonies to the Kentucky State Police for investigation. A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder and a copy forwarded to the department. All these occurrences shall be promptly reported to the department verbally prior to submission of the written report. Extraordinary or unusual occurrences shall include, but not be limited to:

(a) Death of a resident;

(b) Attempted suicide or suicide;

(c) Serious injury, whether accidental or self-inflicted;

(d) Attempted escape or escape from confinement;

(e) Fire;

(f) Riot;

(g) Battery, whether by a staff member or resident;

(h) Sexual assaults; and

(i) Occurrence of contagious or infectious disease, or illness within the facility.

(24) Each adult correctional facility shall have written policy and procedures for emergency situations including but not limited to:

(a) Escapes;

(b) Taking of hostages;

(c) Riots;

(d) Food poisoning;

(e) Civil disturbances in the community;

(f) Natural disaster;

(g) Suicides; and

(h) Other deaths and disorder.

(25) The adult correctional facility shall adopt a written policy and procedures which shall insure that the constitutional rights of inmates to voluntarily practice their own religious activities are protected, subject only to those limitations necessary to maintain order and security of the facility.

(26) The adult correctional facility shall adopt a written policy which shall be implemented to insure that no inmate or group of inmates is in a position of control or authority over other inmates.

(27) The adult correctional facility shall have a policy and procedure for recommending awarding of meritorious good time for inmates in accordance with policies and procedures of the department. The procedures shall include formation of a committee to include an administrator to screen all recommendations. The recommendations shall be sent to the department. Recommendations for restoration of good time shall be screened by the same committee and forwarded to the department.

(28) If the adult correctional facility operates a canteen, all profits shall be spent for recreational programs for inmates. Prices shall be in accordance with those established by the Department of Corrections Inmate Canteen Board.

(29) The department shall have the authority to conduct periodic, scheduled, and unannounced inspections of the adult correctional facility during the term of the contract. The department shall generally observe and monitor the operations of the adult correctional facility at least once per week.

(30) The contract shall provide a hold harmless clause by which the private provider agrees to indemnify, defend, and hold harmless the Commonwealth, its officers, agents, and employees from:

(a) Any claims or losses for service rendered by the private provider, person, or firm performing or supplying services in connection with performance of the contract;

(b) Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the private provider, its officers, or employees in the performance of the contract;

(c) Any claims or losses resulting to any person or firm injured or damaged by the private provider, its officers, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes; and

(d) Any failure of the private provider, its officers, or employees to observe Kentucky laws, including, but not limited to, labor laws and minimum wage laws.

(31) The contract shall require that the private provider give a performance bond to the Commonwealth as obligee, in form satisfactory to the Commonwealth, executed by a surety company authorized to do business in Kentucky and in the penal sum equal to: *twenty* ~~[seventy]~~ percent *(20%)* ~~[(70%)]~~ multiplied by the maximum number of inmates to be housed in the adult correctional facility multiplied by three hundred sixty-five (365) and further multiplied by the rate to be paid the private provider per inmate per day.

(32) The private provider shall provide public liability, property damage, and workers' compensation insurance, insuring, as they may appear, the interest of all parties of agreement against any and all claims which may arise out of the private provider's operations under the terms of this contract. If any carrier of the insurance exercises cancellation, notice shall be made immediately to the Commonwealth of the cancellation.

(33) As set forth within the contract between the Department of Corrections and the private provider:

(a) Failure of the private provider to provide the required services, products, or facilities shall entitle the department to withhold from the contract an amount up to two (2) times the estimated value per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.

(b) The department shall in writing notify the provider of any failure to provide services, products, or facilities as

required. A copy of the written notice shall be sent to the Finance and Administration Cabinet. The private provider shall have fourteen (14) calendar days from its receipt of the notice to abate the failure to provide and to notify the department of the corrective action taken by the private provider.

(c) In the event the department determines that the failure to provide has not been abated within fourteen (14) calendar days after the initial notice, the commissioner of the Department of Corrections shall hold, or assign the matter to a hearing officer for, a hearing and issue findings of fact, conclusions of law, and a recommended order.

(d) Failure to provide services, products, or facilities as required in this agreement shall result in an order to withhold from the contract an amount up to two (2) times the estimated value, as determined after a hearing, per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.

(e) The withholding shall continue until such time as the failure to provide is corrected in the manner stated in the order.

(f) The department and private provider shall in good faith negotiate the actual fair value of the omitted service, product, or facility which shall be subtracted from the amount withheld. The balance of the withholding, if any, shall be promptly returned to the private provider upon final agreement of the department and private provider. Additional withholding from the contract shall be made by the department if an additional amount is due.

(g) The provider may appeal, within thirty (30) days, any order of the department to the Franklin Circuit Court.

SECTION 6. A NEW SECTION OF KRS 197.525 TO 197.990 IS CREATED TO READ AS FOLLOWS:

(1) As set forth within the contract between the Department of Corrections and the private provider: The department may recommend to the secretary of the Finance and Administration Cabinet the assessment of an administrative fine against the private provider of not more than five thousand dollars ($5,000) for the violation of each and any terms of the contract, or of KRS 197.510. Recommendation of fine or penalty assessment by the department shall occur only after a notice of intent to do so has been presented by registered mail to the private provider. The notice of intent shall incorporate the findings of the department and other agencies, if appropriate.

(2) The private provider may, within seventy-two (72) hours of the receipt of the notice of intent, request in writing a hearing before an objective hearing officer of the Attorney General's Office. The secretary of the Finance and Administration Cabinet shall by order issue, modify, or repeal the recommended fine or penalty. The amount of any fine or penalty shall be consistent with the hearing officer's recommendations resulting from the administrative hearing. The private provider may, at its discretion, waive its right to an administrative hearing.

(3) Appeals from any fine or penalty assessed pursuant to this section shall be granted as a matter of right, and shall be taken to the Franklin Circuit Court within thirty (30) days from the date the fine or penalty is issued by the secretary of the Finance and Administration Cabinet.

Section 7. KRS 202A.201 is amended to read as follows:

(1) When an inmate of any penal and correctional institution is reported by the staff of that institution to the Department of Corrections as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the Department of Corrections shall have an examination conducted on the inmate by a ***mental health professional*** [~~physician~~].

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the Department of Corrections, the commissioner of the Department of Corrections may then request of the secretary of the Cabinet for Human Resources the inmate's transfer to a hospital or forensic psychiatric facility. If the secretary of the Cabinet for Human Resources agrees that a transfer is necessary, the person shall be transferred to a Cabinet for Human Resources facility designated by the secretary of the Cabinet for Human Resources, where the person shall remain until the staff of the facility which received him advises the commissioner of the Department of Corrections that the person's condition is such that he may be returned to the institution from which he came. No transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The commissioner of the Department of Corrections shall then authorize his return. If the prisoner's sentence expires during his stay in the facility and he is still in need of involuntary hospitalization, the staff of the facility shall petition the applicable District Court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the commissioner shall:

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the Department of Corrections, except upon a finding, not arbitrarily made, of good cause for not permitting the presentation;

(d) Provide an independent decision maker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the factfinder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the Department of Corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 8. KRS 216.270 is amended to read as follows:

As used in KRS 216.273 to 216.287, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization.

(2) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity, contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory facility-based physicians shall be excluded from the calculation of charge.

(3) "Commission" means the Kentucky Health Care Data Commission created pursuant to KRS 216.273.

(4) "Facility" means, whether operated for a profit or not, any hospital or other health care facility required to be licensed pursuant to KRS Chapter 216B***, except a hospital or other health care facility operated by the Department of Corrections***.

(5) "Health care provider" or "provider" means any facility and service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the commission by administrative regulations promulgated pursuant to KRS Chapter 13A.

(6) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility.

(7) "Hospital services" means:

(a) Inpatient hospital services as enumerated in medicare regulation 42 C.F.R. Sec. 409.10, as it may be amended from time to time;

(b) Emergency services;

(c) Outpatient services provided by the hospital; and

(d) Physician and other services provided in a hospital on an inpatient or outpatient basis.

(8) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic procedures performed by any provider as designated by administrative regulations under KRS Chapter 13A as those for which reports to the commission shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as determined by the commission.

(9) "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes.

(10) "Risk-adjusted" means mathematically modified to remove the effects of differences among providers in their patients'

severity of illness or other factors that are not the result of the providers' treatment of the patients, but that are likely to affect the charges or quality of care.

Section 9. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers***.*** [~~and~~] It shall be unlawful for any car, automobile, or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for ***the*** [~~said~~] car, to have, or be equipped with ***the*** [~~such~~] sets or apparatus even though ***the*** [~~said~~] car is owned by an officer. [~~Provided, however, the provisions of~~] This section shall not apply to any automobile or [~~other~~] vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the Federal Communications Commission or other federal agency having the authority to license same. ***Nothing in this section shall preclude a probation and parole officer employed by the Department of Corrections from carrying on his person or in a private vehicle while conducting his official duties an authorized, state-issued portable radio apparatus capable of transmitting or receiving signals.***

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited, or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited, or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;

(b) A commercial or educational radio or television station, licensed by the Federal Communications Commission, at its place of business; or

(c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers; disaster and emergency services personnel authorized in writing by the state director of disaster and emergency service (for state personnel) or chief executive of the city or county (for their respective personnel); a person holding a valid license issued by the Federal Communications Commission in the amateur radio service; peace officers authorized in writing by the head of their law enforcement agency, Commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.

(5) The secretary of the Finance and Administration Cabinet is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other nonpolice persons for utilization in the N.O.A.A. weather radio system.

Section 10. KRS 439.304 is amended to read as follows:

(1) The commission shall meet ***once annually*** [~~at least every three (3) months~~], and when called into session by the chairman ***upon***[~~, at~~] the request of the Governor, ***or*** [~~of~~] any two (2) or more members of the commission, or on his own motion.

(2) The commission shall advise the Governor and the commissioner of the Department of Corrections concerning correctional policy and programs, including particularly the following:

(a) The need for, and the development of new or specialized institutions, facilities, or programs;

(b) The need for, and the effectuation of collaboration and liaison within the department, and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community;

(c) The need for, and the development of useful researches in penology, correctional treatment, criminal law, or in the disciplines relevant thereto.

Section 11. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections ***and all persons supervised pursuant to KRS 439.560***[~~, or the Division of Community Services and Facilities,~~] shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

  (a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500).

  (b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500), except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

  (a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

  (b) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In counties containing a city of the first class or an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county containing a city of the first class or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county containing a city of the first class or an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500). All sums paid by the defendant under this subsection shall be paid into the general fund of the county containing a city of the first class or urban-county government in lieu of the payment specified in subsection (8) of this section. All

fees fixed under this subsection shall be collected by the circuit clerk of the county containing a city of the first class or urban-county involved. The adult misdemeanant probation and work release program of the county containing a city of the first class or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

Section 12. KRS 439.420 is amended to read as follows:

No person shall be required to wear the regulation dress of the penitentiary or other thing indicating he is under conviction for a crime while out on parole [~~or conditional release~~].

Section 13. KRS 439.570 is amended to read as follows:

(1) All persons accepted for supervision under the terms of the interstate compact as set forth in KRS 439.560 shall be subject to arrest or detention by a probation or parole officer under the same circumstances as Kentucky probationers or parolees. The probation or parole officer shall immediately notify the sending state through the interstate compact of the arrest or detention of the person in question, setting forth the reasons for the arrest or detention.

(2) All persons accepted for supervision under the terms of the interstate compact as set forth in KRS 439.560 shall be subject to the payment of a supervision fee as established in KRS 439.315 and the payment of a drug testing and substance abuse treatment fee as conditions of supervision imposed by the Division of Probation and Parole. Failure to pay the required supervision fee or drug testing and substance abuse treatment fee is grounds for the termination of supervision or shall subject the person to the initiation of revocation proceedings under the same circumstances as set forth in KRS 439.315. For purposes of implementing KRS 439.315 the Division of Probation and Parole shall be the releasing authority.

Section 14. KRS 533.060 is amended to read as follows:

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of the offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, the person shall not be eligible for probation, shock probation, or conditional discharge, except when the person establishes that the person against whom the weapon was used had previously or was then engaged in an act or acts of domestic violence and abuse as defined in KRS 403.720 against either the person convicted or a family member as defined in KRS 403.720 of the person convicted. If the person convicted claims to be exempt from this statute because that person was the victim of domestic violence and abuse as defined in KRS 403.720, the trial judge shall conduct a hearing and make findings to determine the validity of the claim and applicability of this exemption. The findings of the court shall be noted in the final judgment.

(2) When a person has been convicted of a felony and is committed to a correctional ***detention*** facility [~~maintained by the Department of Corrections~~] and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, the person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while awaiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which the person is awaiting trial.

Section 15. KRS 196.990 is amended to read as follows:

(1) Any officer who violates subsection (1) of KRS 196.230 shall be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000). Action shall be brought in the county in which the institution is located.

(2) Any officer or employee who violates subsection (3) of KRS 196.230 shall ipso facto forfeit his office or position, and the office or position shall be declared vacant.

[~~(3) Any person who willfully violates any of the provisions of KRS 196.240 shall be fined not less than twenty five ($25) nor more than one hundred dollars ($100).~~]

Section 16. KRS 210.130 is amended to read as follows:

Religious instruction and ministration for patients of the institutions operated by the Cabinet for Human Resources shall be provided [~~for in the same manner as provided in KRS 196.240 for other state institutions~~].

Section 17. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

(1) "Department" means the Department of Corrections;

(2) "Adult correctional facility" means an adult penal or correctional facility for the exclusive confinement of sentenced adult felons who have been classified by the department to be minimum security ***and restricted custody*** inmates and shall include any prison, reformatory, farm center, forestry camp, or similar institution which houses minimum security sentenced adult felons. For purposes of KRS 197.505 to 197.525, a county or regional jail shall not be considered an adult correctional facility; and

(3) "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the

business of establishing, operating, and managing adult correctional facilities.

Section 18. KRS 197.505 is amended to read as follows:

(1) The state may enter into contracts with a private provider to establish, operate and manage adult correctional facilities. In all such contracts the state shall retain clear supervisory and monitoring powers over the operation and management of the adult correctional facility to insure that the inmates are properly cared for and that the employees of the facility and the public are adequately protected.

(2) No inmate who is ineligible to work or be released outside the walls of the prison pursuant to KRS 197.140 shall be placed in an adult correctional facility that has been contracted for pursuant to this section.

(3) ***Any restricted custody inmate placed in a private prison shall be housed in a facility with a perimeter fence.***

(4) Any adult correctional facility contracted for pursuant to this section shall be constructed only in a county with an established Kentucky State Police post or in a county in which at least two (2) State Police officers reside as a result of a duty assignment or in a county with a full-time police department.

Section 19. The following KRS section is repealed:

196.240 Religious instruction and ministration for persons confined.

Representative Lewis moved that the House concur in the Senate Committee Substitute to **HB 459**. Agreed.

Representative Lewis moved that **HB 459**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See March 30, 1994 roll call on **HB 459** - Appendix)

HB 459, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 459**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 483, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 483** is as follows:

On page 60, after line 10 but before line 11, by adding the following new sections:

"Section 36. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;

(c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.

(4) ***(a)*** Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2)***.***[~~, and~~]

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection ***or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, or beneficiaries of the S-corporation, partnership, or trust, and shall be paid on behalf of the shareholders, partners, or beneficiaries.***[~~;~~]

(c) ***The tax*** [~~however, the~~] credit ***or estimated payment*** shall not exceed the limits set forth in KRS 154.22-050.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax***,*** [~~and~~] the tax credit***, and the estimated tax payment*** determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 37. KRS 141.400 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and

(c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.

(4) ***(a)*** Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2)***.***[~~, and~~]

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection ***or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, or beneficiaries of the S-corporation, partnership, or trust, and shall be paid on behalf of the shareholders, partners, or beneficiaries.***[~~;~~]

(c) ***The tax*** [~~however, the~~] credit ***or estimated payment*** shall not exceed the limits set forth in KRS 154.28-090.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax***,*** [~~and~~] the tax credit***, and the estimated tax payment*** determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22.070 and KRS 154.28-010 to 154.28-090 and this section.

Section 38. KRS 141.403 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic revitalization project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(4) ***(a)*** Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2)***.***[~~, and~~]

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection ***or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, or beneficiaries of the S-corporation, partnership, or trust, and shall be paid on behalf of the shareholders, partners, or beneficiaries.***[~~;~~]

(c) The tax [~~however, the~~] credit ***or estimated payment*** shall not exceed the limits set forth in KRS 154-26-090.

(d) If the tax computed ***in this section*** [~~herein~~] exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, ~~[and]~~ the tax credit***, and the estimated tax payment*** determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

Section 39. KRS 141.407 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;

(c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(4) ***(a)*** Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2)***.***~~[, and]~~

(b) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection ***or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the shareholders, partners, or beneficiaries of the S-corporation, partnership, or trust, and shall be paid on behalf of the shareholders, partners, or beneficiaries.***~~[;]~~

(c) The tax ~~[however, the]~~ credit ***or estimated payment*** shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.

(d) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(e) Any estimated tax payment made by the S-corporation, partnership, or trust in satisfaction of the tax liability of shareholders, partners, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax***,*** [~~and~~] the tax credit***, and the estimated tax payment*** determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under Sections 1 to 15 of this Act."; and

On page 60, line 11, by deleting "36" and inserting in lieu thereof "40"; and

On page 60, line 11, after "18" by inserting ", and Sections 36 to 39".

Representative Lear moved that the House concur in Senate Committee Amendment No. 1 to **HB 483**. Agreed.

Representative Lear moved that **HB 483**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 68, Nays 4. (See March 30, 1994 roll call on **HB 483** - Appendix)

HB 483, as amended by the Senate, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 483**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 513, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 513** is as follows:

On page 4, after line 21 by inserting the following:

"Section 3. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed, and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in ***the*** [~~such~~] property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1 of each year. It shall be the duty of all persons owning or having any interest in any real property taxable in this state to list or have listed ***the*** [~~such~~] property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property or tangible personal property taxable in this state to list or have listed ***the*** [~~such~~] property with the property valuation administrator of the county of taxable situs or with the Revenue Cabinet between January 1 and ***May*** [~~April~~] 15 in each year, except as otherwise prescribed by law. ***The filing date for an individual's intangible property***

tax return may be extended to the extended federal income filing date approved by the Internal Revenue Service for that individual. If an individual extends the filing date for the intangible return, no discount shall be allowed upon the payment of the intangible tax. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer may list his property in person before the property valuation administrator or his deputy, or may file a property tax return by first class mail. Any real property correctly and completely described in the assessment record for the previous year, or purchased during the preceding year and for which a value was stated in the deed according to the provisions of KRS 382.135, may be considered by the owner to be listed for the current year if no changes that could potentially affect the assessed value have been made to the property. However, if requested in writing by the property valuation administrator or by the Revenue Cabinet, any real property owner shall submit a property tax return to verify existing information or to provide additional information for assessment purposes. Any real property which has been underassessed as a result of the owner intentionally failing to provide information, or intentionally providing erroneous information, shall be subject to revaluation, and the difference in value shall be assessed as omitted property under the provisions of KRS 132.290.

(3) If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list. The property valuation administrator, his employee, or employees of the Revenue Cabinet may physically inspect and revalue land and buildings in the absence of the property owner or resident. The exterior dimensions of buildings may be measured and building photographs may be taken; however, with the exception of buildings under construction or not yet occupied, an interior inspection of residential and farm buildings, and of the nonpublic portions of commercial buildings shall not be conducted in the absence or without the permission of the owner or resident.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of the person without designating them by name.

(5) Real property tax roll entries for which tax bills have not been collected for more than one (1) year, and for which the property valuation administrator cannot physically locate and identify the real property, shall be deleted. The property valuation administrator shall keep a record, which shall be open under the provisions of KRS 61.870 to 61.884, of these entries. If, at any time, one of these entries is determined to represent a valid parcel of property it shall be assessed as omitted property under the provisions of KRS 132.290.

(6) All real property exempt from taxation by Section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of the tax-exempt property, but the property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the Revenue Cabinet within thirty (30) days of the close of the listing period. This inventory shall be in the form prescribed by the Revenue Cabinet. The Revenue Cabinet shall make an annual report itemizing all exempt properties to the Governor and the Legislative Research Commission within sixty (60) days of the close of the listing period.

(7) Each property valuation administrator, under the direction of the Revenue Cabinet, shall review annually all real property listed with him under subsection (6) of this section and claimed to be exempt from taxation by Section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2)."

The Senate Floor Amendment No. 2 Title to **HB 513** is as follows:

On page 1, by amending the title to read as follows:

"AN ACT relating to property tax."

Representative Geveden moved that the House concur in Senate Committee Amendment No. 1 to **HB 513**. Agreed.

Representative Geveden moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 513**. Agreed.

Representative Geveden moved that **HB 513**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 77, Nays 2. (See March 30, 1994 roll call on **HB 513** - Appendix)

HB 513, as amended by the Senate, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 513**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 712, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that **HB 712** be returned in the Orders of the Day. Agreed.

HB 775, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 3 to **HB 775** is as follows:

On page 2, starting at the beginning of line 16, to insert the following:

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The State Parks Commission is hearby created in order to provide oversight and advice on the Parks Capital Maintenance and Renovation fund, Capital Construction, Parks Mission and management. For administrative purposes, this commission is attached to the Department of Parks, which shall provide necessary support staff and services.

(2) The State Parks Commission shall consist of the following members: the commissioner of the Department of Parks; the deputy commissioner of support services; the commissioner of the Department of Fish and Wildlife Resources; the secretary of the Tourism Cabinet; the director of the Kentucky Nature Preserves Commission; the executive director of the Kentucky Heritage Council; the commissioner of the Department of Personnel; and six (6) other members appointed by the Governor, including a resort park manager, and five (5) citizen members including a certified public accountant, a registered architect, an individual who is experienced in tourism promotion, an individual who is experienced in hotel or motel operations, and an individual who is experienced in restaurant operations. The citizen members and resort park manager shall serve four (4) year terms, unless sooner removed for cause; all other members shall serve during their terms of office. The commissioner of the Department of Parks shall act as chairman of the commission. Each citizen member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The State Parks Commission shall meet at least every three (3) months, and when called into session by the chairman at the request of the Governor, or of any two (2) or more members of the State Parks Commission, or on his own motion.

(2) In order to provide for independence, continuity of purpose, and oversight for the Department of Parks, the State Parks Commission shall advise the Governor and the commissioner of the Department of Parks on the following:

(a) The mission of the Commonwealth's state parks;

(b) Park operations, tourism promotion, and natural and historic preservation policy and programs;

(c) Development of new or specialized facilities, attractions or programs;

(d) Development and implementation of a parks management design which recognizes the changes evolving in the tourism and hotel and motel industries; and

(e) Provide oversight and advice on the Parks Capital Maintenance and Renovation fund.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The State Parks Commission may visit and inspect any state resort or recreational park or historic site and may inform and advise the commissioner of the Department of Parks in regard to the facility's physical or other condition, its operation, management, program, and general condition. The State Parks Commission or a majority of its members shall have full access to the grounds, buildings, and financial and other records belonging or relating to the facilities.

SECTION 7. The terms of office for the initial six (6) appointed members of the State Parks Commission shall be staggered as follows: two (2) members shall serve for terms expiring June 30, 1996; two (2) members shall serve for terms expiring June 30, 1997; and two (2) members shall serve for terms expiring June 30, 1998.

On page 2, on line 16, after the word SECTION strike through 4 and add 8.

The Senate Floor Amendment No. 2 Title to **HB 775** is as follows:

By amending the title to read as follows: "AN ACT relating to state parks and making an appropriation."

Representative Bentley moved that the House concur in Senate Floor Amendment No. 3 to **HB 775**. Agreed.

Representative Bentley moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 775**. Agreed.

Representative Bentley moved that **HB 775**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See March 30, 1994 roll call on **HB 775** - Appendix)

HB 775, as amended by the Senate, was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 775**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 891, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 891** is as follows:

On page 15, line 27, to delete "***constituent who resides in his legislative district***" and insert in lieu thereof "***person***".

Representative Palumbo moved that the House concur in Senate Committee Amendment No. 1 to **HB 891**. Agreed.

Representative Palumbo moved that **HB 891**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 30, 1994 roll call on **HB 891** - Appendix)

HB 891, as amended by the Senate, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 891**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

HB 898, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 4 to **HB 898** is as follows:

On page 7, line 20, by inserting the following:

"***(4) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a county that contains more than one (1) track may only receive interstate simulcasts in accordance with the provisions of subsections (1) and (2) of this section, subject to the following additional limitations:***

- ***(a) All harness tracks in the county shall select interstate simulcasting dates before any thoroughbred track in the county in even-numbered years;***
- ***(b) All thoroughbred tracks in the county shall select interstate simulcasting dates before any harness track in the county in odd-numbered years;***
- ***(c) In selecting interstate simulcasting dates, the track with the right to select interstate simulcasting dates shall first select dates that correspond with the intertrack wagering dates awarded to that track by the commission for that year, including any intervening days. No track shall select dates that correspond with the sales dates of another track in the county. The selecting track shall choose dates in weekly increments, if possible;***
- ***(d) Except as provided in subsection (1)(i) of this section, no harness track shall receive any interstate simulcast of any thoroughbred race during a live thoroughbred race meet conducted in the county;***
- ***(e) Except as provided in subsection (2)(i) of this section, no thoroughbred track shall receive any interstate simulcast of any harness race during a live harness race meet conducted in the county;***
- ***(f) From the effective date of this Act through December 31, 1994, all harness tracks in the county shall be entitled to thirty percent (30%) of the available interstate simulcast dates and all thoroughbred tracks in the county shall be entitled to seventy percent (70%) of the available interstate simulcast dates;***
- ***(g) Beginning January 1, 1995, interstate simulcast wagering dates shall be determined by the following method:***
  - ***1. Determine the total gross handle for all harness tracks in the county during the immediate preceding calendar year;***
  - ***2. Determine the total gross handle for all thoroughbred tracks in the county during the immediate preceding calendar year;***
  - ***3. Determine the total gross handle for all tracks in the county during the immediate preceding calendar year;***
  - ***4. Interstate simulcast wagering dates shall be selected on a percentage basis, determined by dividing the gross handle for each track by the gross handle for all tracks;***
  - ***5. For purposes of this subsection, total gross handle includes live handle and intertrack wagering***

handle;

(h) During calendar year 1995, all harness tracks in the county shall be entitled to not less than thirty percent (30%) of the available interstate simulcast dates and all thoroughbred tracks in the county shall be entitled to not less than seventy percent (70%) of the available interstate simulcast dates;

(i) As used in subsections (4)(f) and (4)(h) of this section, "available interstate simulcast dates" means all dates, except those dates from the first awarded day of a live meet through the last awarded day of the same live meet for all live racing in the county;

(j) Interstate simulcasting and wagering conducted in accordance with subsection (5) of Section 3 of this Act shall not be subject to the limitations of this subsection."

Representative McElroy moved that the House concur in Senate Floor Amendment No. 4 to **HB 898**. Agreed.

Representative McElroy moved that **HB 898**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 59, Nays 21. (See March 30, 1994 roll call on **HB 898** - Appendix)

HB 898, as amended by the Senate, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 898**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 712, with Senate Floor Amendment and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 712** is as follows:

On page 1, line 18, by deleting "***, or volunteering for,***" and after "***duty***", by inserting "***by executive order***".

The Senate Committee Amendment No. 1 to **HB 712** is as follows:

On page 1, line 16, by deleting "***state disaster and emergency services***" and inserting in lieu thereof "***the Division of Disaster and Emergency Services***"; and

On page 1, line 22, by deleting "***be responsible for determining***" and inserting in lieu thereof "***make a recommendation concerning the***" and, following "***need***" by deleting "***of***" and inserting in lieu thereof "***for an***"; and

On page 1, line 23, by deleting "***Employee's supervisor shall retain authority to***"; and

On page 1, by deleting lines 24 and 25 in their entirety; and

On page 2, by deleting lines 1 and 2 in their entirety.

Representative Wayne moved that the House concur in Senate Floor Amendment No. 2 to **HB 712**. Agreed.

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 712**. Agreed.

Representative Wayne moved that **HB 712**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 30, 1994 roll call on **HB 712** - Appendix)

HB 712, as amended by the Senate, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 712**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 928, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 928** is as follows:

HB 928, AN ACT relating to workers' compensation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART 1

DEFINITIONS

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related harmful change in the human organism, arising out of and in the course of employment, including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting ***the*** [~~such~~] disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease***, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury***.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which ***the*** claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims [~~under the direction and supervision of the Workers' Compensation Board~~].

(10) "Board" means the Workers' Compensation Board.

(11) "Disability" means a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employee is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employee's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer***, if reported for tax purposes,*** as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with ***the*** [~~such~~] farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States***,***" when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger and surface mining sites, all activities performed at tipple or processing plants that clean, break, size, or treat coal, and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if *the* [~~such~~] acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether *the* [~~such~~] acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. [~~Provided~~] However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof.

(25) *(a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy.*

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the *commissioner* [~~Workers' Compensation Board~~] using generally accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The *commissioner* [~~board~~] shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each [~~such~~] claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of ***the*** [~~such~~] claims using the adjusted weekly benefit shall then be calculated by the ***commissioner*** [~~board~~]. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The ***commissioner*** [~~board~~] shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from [~~board~~] records ***of the department*** and from the records of the Division of Unemployment Insurance. The ***commissioner*** [~~board~~] shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The ***commissioner*** [~~board~~] shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll, calculated using [~~board~~] records ***of the department*** and ***the*** Division of Unemployment Insurance data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the ***commissioner,*** [~~board~~] which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on ***the*** [~~such~~] lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the ***commissioner*** [~~board~~] pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured ***the*** [~~such~~] risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured***,*** he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection, except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

(29)[~~(26)~~] "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Emergency medical care" means medical treatment rendered by a physician to an employee under unanticipated conditions for an injury which immediately threatens the life or health of the employee.

PART 2

REORGANIZATION, ADMINISTRATION, AND OMBUDSMAN

Section 2. KRS 336.015 is amended to read as follows:

(1) The secretary of labor shall have the duties, responsibilities, power***,*** and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, and all other matters except workers' compensation previously under the jurisdiction of the commissioner and Department of Labor.

(2) The Labor Cabinet shall consist of the Offices of the Secretary, General Counsel, Administrative Services, [~~and~~] Labor-Management Relations***; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission;***[~~,~~] and the Departments of Workplace Standards***,*** and [~~of~~] Workers' Claims. The commissioner of the Department of Workplace Standards within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet.

(3) The secretary may not appoint personnel necessary to perform the functions of the Department of Workers' Claims.

Section 3. KRS 336.020 is amended to read as follows:

(1) The Department of Workplace Standards shall be headed by a commissioner, and shall be divided for administrative purposes into the Divisions of Employment Standards and Mediations; Occupational Safety and Health Compliance; ***and*** Education and Training for Occupational Safety and Health[~~; and Special Fund~~].

(2) The Department of Workers' Claims shall be administered by a [~~Workers' Compensation Board, through a~~] commissioner ***and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Administrative Law Judges, Insurance, and Special Fund***.

Section 4. KRS 336.040 is amended to read as follows:

(1) The department shall exercise all administrative functions of the state concerned with employer-employee relationships, including ***the***[~~:~~

~~(a)~~] safety of workers[~~; and~~

~~(b) The workers' compensation Board~~].

(2) The department shall:

(a) Promote friendly and cooperative relations between employers and employees;

(b) Accumulate and publish industrial statistics and aid and encourage the development of new industries and the expansion of existing industries in Kentucky;

(c) Encourage, promote, and develop fair practices both by employers and employees; discourage and eliminate as far as practicable all unfair practices by either; and enforce laws relating to unfair practices;

(d) Foster, promote, and develop the welfare of both wage earners and industries in Kentucky;

(e) Improve working and living conditions of employees***,*** and advance their opportunities for profitable employment; and

(f) Inquire into the causes of accidental injuries and occupational diseases arising out of and in the course of employment, and advance measures for the prevention of accidents and occupational diseases and for the improvement of sanitary conditions in places of employment.

Section 5. KRS 342.1228 is amended to read as follows:

The Kentucky Workers' Compensation Funding Commission shall not be subject to the Governor's power of reorganization under KRS Chapter 12***, including attachment or transfer to another organizational unit or administrative body other than the Labor Cabinet***. The Governor may, however, recommend changes in the organization of the commission to the General Assembly at any regular or special session of the General Assembly.

Section 6. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386[~~. Provided, however, the commission shall not invest any of the funds collected pursuant to KRS 342.122 in any corporation, company, partnership, or other business entity, or any bank, investment service firm, or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa~~];

(c) Report to the General Assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by ***the*** [~~such~~] mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each regular legislative session, changes deemed necessary in the level of the assessments imposed in KRS 342.122;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each regular legislative session, a proposed budget for the biennium beginning July 1 following the regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the Revenue Cabinet, of all entities subject to the assessments imposed in KRS 342.122; and

(h) Report monthly to the ***Committees*** [~~Committee~~] on Appropriations and Revenue ***and on Labor and Industry*** its monthly expenditures of restricted agency funds and the nature of ***the*** [~~such~~] expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management and Economic Analysis rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of ***the*** [~~such~~] funds.

(5) The commission shall be attached to the ***Labor*** [~~Revenue~~] Cabinet for administrative purposes only.

SECTION 7. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall establish an ombudsman program. The functions of the ombudsman shall include:

(a) Serving as an information source for employees, employers, medical, vocational, and rehabilitation personnel, carriers, and self-insurers;

(b) Responding to inquiries and complaints relative to the workers' compensation program;

(c) Advising all parties of their rights and obligations under this chapter; and

(d) Performing other duties as required by the commissioner through administrative regulations promulgated by the commissioner.

(2) The employee, employer, carrier, self-insured administrator, and medical provider shall promptly comply with reasonable information requests from an ombudsman.

(3) The ombudsman program shall be staffed with personnel trained in techniques performed by ombudsmen and who are familiar with medical and vocational rehabilitation principles and knowledgeable about the provisions of this chapter and applicable administrative regulations.

(4) A toll-free telephone number shall be provided throughout the Commonwealth to insure easy access by all parties to the ombudsman program.

Section 8. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of ***the*** ~~[such]~~ department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Office of Administration.
    (d) Department of Corrections.
    (e) Parole Board.
    (f) Kentucky State Corrections Commission.
  2. Education and Humanities Cabinet:
    (a) Department of Education.
      (1) State Board for Elementary and Secondary Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
  3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Department of Law.
    (g) Office of Communications and Community Affairs.
  4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.

(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.

5. Cabinet for Economic Development:
(a) Department for Existing Business and Industry.
(b) Tobacco Research Board.
(c) Kentucky Development Finance Authority.
(d) Office of Business and Technology.
(e) Office of Industrial Development.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Employment Services.
(c) Department for Social Insurance.
(d) Department for Social Services.
(e) Department for Medicaid Services.
(f) Department for Mental Health and Mental Retardation Services.
(g) Unemployment Insurance Commission.
(h) Commission for Handicapped Children.
(i) Public Assistance Appeals Board.
(j) Office of Administrative Services.
(k) Office of Communications.
(l) Office of General Counsel.
(m) Office of Inspector General.
(n) Office of Policy and Budget.
(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Fiscal Affairs.
(c) Office of Historic Properties.
(d) Office of Financial Management and Economic Analysis.
(e) Office of Risk Management.

(f) Department for Administration.
(g) Department of Facilities Management.
(h) Department of Information Systems.
(i) State Property and Buildings Commission.
(j) Kentucky Pollution Abatement Authority.
(k) Kentucky Savings Bond Authority.
(l) Deferred Compensation Systems.
(m) Office of Equal Employment Opportunity Contract Compliance.
(n) Capital Plaza Authority.
(o) County Officials Compensation Board.
(p) Financial Disclosure Review Commission.
(q) Kentucky Employees Retirement Systems.
(r) Commonwealth Credit Union.
(s) State Investment Commission.
(t) Kentucky Housing Corporation.
(u) Governmental Services Center.
(v) Kentucky Local Correctional Facilities Construction Authority.
(w) Kentucky Turnpike Authority.
(x) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Tax Compliance.
(c) Department of Administrative Services.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:

- (a) Department for Adult and Technical Education.
- (b) Department of Vocational Rehabilitation.
- (c) Department for the Blind.
- (d) State Board for Adult and Technical Education.
- (e) Governor's Council on Vocational Education.
- (f) Governor's Commission on Literacy.
- (g) The State Board for Proprietary Education.
- (h) The GED Foundation.
- (i) The Kentucky Occupational Information Coordinating Committee.
- (j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

PART 3

WORKERS' COMPENSATION BOARD AND ALJS

Section 9. KRS 342.213 is amended to read as follows:

(1) ~~[Except as provided in subsection (3) of this section]~~ The Governor shall make all appointments to the board***, appoint the administrative law judges, and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230*** by choosing ***from*** ~~[one (1) of three (3)]~~ names presented to him by the Workers' Compensation ~~[Board]~~ Nominating Commission.

(2) The Workers' Compensation ~~[Board]~~ Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(d) The members shall annually select a chairman of the nominating commission.

(3) The Governor shall appoint the administrative law judges in accordance with the provisions of KRS 342.230 from a list of names submitted by the Workers' Compensation Nominating Commission. The list shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.230. The administrative law judges shall be subject to Senate confirmation in accordance with KRS 11.160.

(4) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.

(5) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than ninety (90) days after a vacancy occurs.

(b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

(6)[~~(3)~~] The ***nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute*** [~~initial appointments to the board created pursuant to KRS 342.215 shall be made by the Governor from a list of nine (9) names submitted by the nominating commission on the first Monday in January, 1988~~]. ***In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars ($100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.***

Section 10. KRS 342.215 is amended to read as follows:

(1) The Workers' Compensation Board is hereby created and established. The board[~~, through the commissioner, shall exercise complete authority over the administration of the Department of Workers' Claims and~~] shall rule on appeals of decisions rendered by administrative law judges under this chapter. ***The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.***

(2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.

(3) [~~Of the members first appointed under this section, one (1) shall serve a term of two (2) years; one (1) a term of three (3) years; and one (1) a term of four (4) years, as designated by the Governor at the time of the appointments. Thereafter,~~] Each term ***of a board member*** shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. ***The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has resigned or has been removed from his position prior to the expiration of his term.*** [~~Each member of the board shall hold office until his successor is appointed and qualifies.~~] The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

(4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.

(5) [~~The terms of all members of the Workers' Compensation Board who are in office prior to January 4, 1988, shall automatically expire one hundred eighty (180) days following January 4, 1988. In addition to rendering decisions, awards and orders, the members shall assist in training the newly appointed full-time members of the Workers' Compensation Board created pursuant to this chapter and the newly employed administrative law judges.~~

~~(6)~~] Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.

Section 11. KRS 342.228 is amended to read as follows:

(1) The Department of Workers' Claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance***,*** and rehabilitation provisions in this chapter. The department shall be ***administered*** [~~headed~~] by a commissioner ***appointed*** [~~hired~~] by the ***Governor. The Governor shall select the commissioner from a list of three (3) names submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213. The commissioner appointed by the Governor shall be subject to the consent of the Senate in accordance with KRS 11.160*** [~~board, who shall be responsible for overseeing the administration of claims and the administration of the insurance, self-insurance and rehabilitation provisions of this chapter~~].

(2) The commissioner shall be an attorney and shall have demonstrated knowledge and experience in the area of workers' compensation, public administration, and administrative law.

Section 12. KRS 342.230 is amended to read as follows:

(1) [~~Upon the recommendation of~~] The commissioner, [~~the board,~~] within the limits of appropriations therefor ***and except as otherwise specifically provided in this chapter***, shall establish and fill any positions, including medical services and advice, necessary to carry on the ***department's*** [~~board's~~] work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges***,*** and board members, shall be members of the classified service.

(2) The [~~board shall employ a~~] commissioner ***of the Department of Workers' Claims***[~~. The commissioner~~] shall have immediate supervision of the employees of the department, perform [~~such~~] duties [~~as are~~] assigned him, and have complete authority[~~, on behalf of the board,~~] to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner ***with the assistance of the board*** shall ***train and instruct the administrative law judges on an on-going basis; assign cases; and monitor the caseloads of the administrative law judges and the***

Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board and the administrative law judges***;***[~~, shall~~] annually report the activities of the board and administrative law judges to the Governor***;***[~~,~~] and [~~shall~~] devote his full time to the duties of his office. ***The commissioner shall be paid a salary not less than the salary of a member of the board.*** [~~He shall receive a salary to be fixed by the board.~~]

(3) The ***Governor*** [~~board~~] shall ***appoint,*** [~~employ~~] with the consent of the Senate ***in accordance with KRS 11.160*** for a term of four (4) years***,*** not more than ***sixteen (16)*** [~~fifteen (15)~~] administrative law judges, each of whom shall ***be an attorney and shall*** have ***five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, or extensive knowledge of workers' compensation law*** [~~the qualifications of a Circuit Judge, except residence in a district~~], and shall be paid the same salary ***as a Circuit Judge. The Governor shall appoint the administrative law judges from a list of three (3) names for each administrative law judge position submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213 and for this purpose only, a member of the Workers' Compensation Board shall serve as an ex-officio member of the nominating commission. Each administrative law judge***[~~, shall be subject to removal during the term of employment for violation of the code of judicial ethics, and~~] may be employed for additional terms of four (4) years with the consent of the Senate ***in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee***. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make [~~such~~] rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(4) ***To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.***

(5) The ***Governor*** [~~board~~] may at any time remove the commissioner ***or any member of the board***. The ***commissioner*** [~~board~~] may remove any administrative law judge***. A member of the board or an administrative law judge may be removed*** for ***good cause including:*** violation of the code of judicial ethics ***or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section***.

(6)[~~(5)~~] Any vacancy in the term of an administrative law judge***, which occurs prior to the expiration of the term,*** shall be filled by appointment of the ***Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs*** [~~board~~], with the consent of the Senate ***in accordance with KRS 11.160,*** for the remainder of the term. [~~In the event the Senate is not in session at the time of the appointment to fill the vacancy, the consent of the Senate shall be obtained during the time the Senate next convenes.~~]

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill these positions.

(b) Effective at 12 midnight, December 31, 1995, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 1996, the Governor shall make four (4) year appointments to fill these positions.

(c) On January 1, 1996, and January 1, 1998, as provided in paragraphs (a) and (b) of this subsection, and every fourth year thereafter, administrative law judges shall be appointed by the Governor for four (4) year terms and confirmed by the Senate in accordance with KRS 11.160. Confirmation hearings for administrative law judges shall be completed by the end of the regular session every four (4) years thereafter beginning with the 1996 Regular Session. Vacancies shall be filled in accordance with subsection (6) of this section.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties and requirements as those set forth in this section for administrative law judges, and to be subject to removal for the same reasons. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, providing educational opportunities for the administrative law judges, and supervising the work of the employees of the Department of Workers' Claims who provide staff support for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional one thousand dollars ($1,000) per year. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the

commissioner shall employ a person in this position for a four (4) year term.

Section 13. KRS 342.231 is amended to read as follows:

[~~(1) The commissioner of the Department of Workers' Claims shall be paid a salary not to exceed the salary of an administrative law judge as provided in KRS Chapter 342.~~

~~(2)~~] The Labor Cabinet shall report monthly to the Committee on Appropriations and Revenue its monthly expenditures of restricted agency funds and the nature of such expenditures. Separate reporting shall be done by each department within the Labor Cabinet and for general administration and support.

Section 14. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the ***commissioner*** [~~board~~] for a hearing in regard to the matter at issue and for a ruling thereon. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after ***the*** [~~such~~] death, or within two (2) years after the cessation of voluntary payments, if any have been made.

(2) Except with respect to uncontested claims for retraining incentive benefits by reason of occupational pneumoconiosis related to exposure to coal dust, or for disability or death by reason of occupational diseases, within thirty (30) days after the application has been received the commissioner shall set the date for a prehearing conference, to be held as soon as practicable in view of the matter involved, and shall notify the parties at issue of the time and place of the prehearing conference.

(3) The prehearing conference shall be held at or convenient to the place where the employee resides, provided that such prehearing conference shall be held within the boundaries of the Commonwealth. At the prehearing conference, an administrative law judge shall confer informally with the parties at issue and their counsel, if any, for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposal of the case. If agreement upon any matter is reached, the administrative law judge shall write a memorandum setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge shall file it with the ***commission*** [~~board~~]. Once filed, the memorandum shall become a part of the record.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

(5) An application for adjustment of claim shall be held in abeyance by the administrative law judge during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle him, unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 15. KRS 342.275 is amended to read as follows:

In any claim in which settlement is not reached at the prehearing conference, the administrative law judge shall hold a hearing on the matters at issue within sixty (60) days from the date of the prehearing conference in a location at or convenient to the place where the employee resides, ***except that the*** [~~provided that such~~] conference shall be held within the boundaries of the Commonwealth. The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the ***commissioner*** [~~board~~]. The commissioner shall notify the parties at issue of the time and place of the hearing. The administrative law judge shall render the award, order***,*** or decision within ***sixty (60) days following the final hearing unless mutually agreed to by all parties*** [~~thirty (30) days after the case is submitted~~]. The award, order***,*** or decision, together with a statement of the findings of fact, rulings of law***,*** and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order***,*** or decision shall immediately be sent to the parties in dispute.

PART 4

ALTERNATIVE DISPUTE RESOLUTION

SECTION 16. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In accordance with administrative regulations promulgated by the commissioner, a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative that contains the following provisions may be recognized as valid and binding:

(a) An alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter that relate to the resolution of disputes, and which may include but is not limited to mediation and arbitration, the results of which may be binding upon the parties;

(b) The use of an agreed list of providers of medical treatment, which may be the exclusive source of all medical and related treatment provided under this chapter;

(c) The use of a limited list of physicians to conduct independent medical examinations;

(d) A light duty, modified job, or return-to-work program;

(e) A vocational rehabilitation or retraining program; and

(f) A twenty-four (24) hour health care coverage plan for medical benefits.

(2) A system of arbitration may provide that the decision of the arbiter is subject to review by an administrative law judge.

(3) Notwithstanding the provisions in subsection (1) of this section, no agreement shall be recognized as valid and binding that diminishes the rights of any of the parties under this chapter. Also, no agreement shall be valid and binding unless it is agreed to by the employer's insurance carrier.

PART 5

MEDICAL PROVISIONS: MANAGED CARE, STATEMENT FOR SERVICES, FEE SCHEDULES, ANTI-BALANCE BILLING, SELF-REFERRAL

Section 17. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. ***The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee.*** [~~The employee may select the physician to treat his injury, and the hospital in which he shall be treated.~~] The employer, or an insurer on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of ***the*** [~~such~~] services within thirty (30) days of receipt of a statement for services. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter***,*** if appropriate***,*** as long as medical services are rendered. ***The fee, charge, or request for reimbursement shall be billed at the medical service provider's lowest rate or lowest schedule of charges except for Medicaid. Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.***

(2) ***Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.***

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall [~~initially~~] pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces ***as may reasonably be required at the time of the injury and thereafter during disability***.

(7)[~~(3)~~] Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat his injury or disease, or because of the hospital selected by the employee in which he is being treated, that the employee is not receiving proper medical treatment and his recovery is being substantially affected or delayed; or that the funds for his medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for his injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(8)[~~(4)~~] An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury ***or disease*** for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 18. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than ***two (2)*** [~~three (3)~~] physicians without prior consent from the administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. ***The*** [~~Such~~] report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of ***the*** [~~such~~] report and to cross-examine the reporting physician. The ***commissioner*** [~~board~~] shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 19. KRS 342.035 is amended to read as follows:

(1) [~~Within one hundred eighty (180) days following January 4, 1988, and~~] Periodically [~~thereafter~~], the ***commissioner*** [~~board~~] shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges***,*** and reimbursements under KRS 342.020 ***and this section*** shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons of a like standard of living in the same community and where such treatment is paid for by the injured person himself. In determining what fees are reasonable, the ***commissioner*** [~~board~~] may also consider the increased security of payment afforded by this chapter. ***In addition to the limitation on fees adopted pursuant to this section, no provider of medical services as defined in this chapter shall charge or attempt to collect a fee, charge or reimbursement for medical services or supplies rendered after the effective date of this Act greater than one hundred twenty percent (120%) of the maximum amount allowed or permitted to be charged by a provider of medical services under the federal Medicare program (Title XVIII of the Social Security Act). Unless specifically adopted by administrative regulations promulgated by the commissioner, any medical practice standards adopted by the federal Medicare program shall not be utilized in determining the reasonableness or appropriateness of medical care.***

(2) *No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.*

(3) Where *these* [~~such~~] requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused, or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

(4) The commissioner shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer.

(5) (a) To ensure compliance with subsections (1) and (4) of this section, the commissioner shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, group self-insurer, and self-insured employer to certify to the commissioner the program or plan it has adopted to ensure compliance.

(b) In addition, the commissioner shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the commissioner, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the commissioner to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the commissioner, and shall use the information for no other purpose than the audit required by this paragraph.

(c) The commissioner shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, group self-insurer, or self-insured employer pursuant to this chapter.

(d) Periodically, or upon request, the commissioner shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.

(e) The cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.

(6) The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents ($0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.

(8) (a) The commissioner shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The commissioner may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.

(b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

SECTION 20. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A:

(a) Establishing the form and content of a statement for services;

(b) Specifying the manner in which the employee may designate and change the designation of physicians;

(c) Requiring selection of gatekeeper physicians;

(d) Requiring reports from providers on the condition of the employee; and

(e) Establishing procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of medical services shall be resolved.

(2) Pending the effective date of administrative regulations promulgated by the commissioner, all administrative regulations heretofore promulgated by the Workers' Compensation Board pertaining to these matters shall remain in effect, it being determined that those administrative regulations are within the statutory grant of authority, meet legislative intent, and are not in conflict with the provisions of this chapter.

Section 21. KRS 342.735 is amended to read as follows:

The ***commissioner*** [~~board~~] shall ***promulgate administrative*** [~~establish rules and~~] regulations to expedite the payment of temporary total disability and medical expense benefits. ***The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an administrative law judge on medical issues relating to the reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.***

Section 22. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment***, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment***.

(2) The ***commissioner*** [~~board~~] shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. [~~The board shall approve as qualified such facilities, institutions, and physicians as are capable of rendering competent rehabilitation service to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.~~]

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service ***likely to return the employee to suitable, gainful employment*** [~~the administrative law judge may deem necessary~~], be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The ***commissioner*** [~~board~~] shall cooperate on a reciprocal basis with the Kentucky Office of Rehabilitation of the Department of Education and the Department of Employment Services of the Kentucky Cabinet for Human Resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. ***This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on the effective date of this section.***

(7) ***Prior to an order from an administrative law judge, the provisions of this section shall not be mandatory*** [~~The board shall, by July 1, 1988, promulgate administrative regulations to effectuate the provisions of this section. The administrative regulations shall ensure early intervention; prompt and cost efficient delivery of rehabilitation services; and vigorous monitoring of qualified rehabilitation providers, facilities, and agencies~~].

PART 6

TWENTY-FOUR HOUR COVERAGE

SECTION 23. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may establish one (1) or more pilot programs for interested employers of integrated management of an employer's workers' compensation and group health insurance claims by an insurer authorized to do business in the Commonwealth and may promulgate any administrative regulations necessary to implement the provisions of this subsection. The integrated management of such claims shall in no event affect any benefits, rights, or coverage established pursuant to a workers' compensation insurance policy. Treatment for work-related conditions shall not be subject to either copayments or deductibles. The commissioner shall make a report comparing the results of each pilot program to the expected results under traditional workers' compensation insurance and traditional workers' compensation with a managed care program. The pilot program shall serve as a tentative model for future experiments. Unless continued or modified by law, this subsection shall expire effective September 1, 1998.

(2) No policy for twenty-four (24) hour coverage shall become effective until it is reviewed and approved by the commissioner, in consultation with the commissioner of the Department of Insurance.

(3) The purchase of a twenty-four (24) hour health policy shall not constitute an exemption from statutory provisions which require other nonmedical insurance coverage. However, an insurance carrier shall reduce its premium for insurance coverage written without the medical or health care component. Notwithstanding the provisions of Subtitle 13 of KRS Chapter 304, the premium reduction required in this subsection shall be subject to the approval of the commissioner of the Department of Insurance.

(4) If an employer obtains a twenty-four (24) hour health insurance policy, pursuant to this section, to secure payment of compensation for medical care and treatment under this chapter, the employer shall also procure an insurance policy which shall provide indemnity benefits to ensure that the total coverage afforded by both the twenty-four (24) hour insurance policy and the policy providing indemnity benefits, shall provide the total compensation required by this chapter.

(5) The participants in a pilot project for twenty-four (24) hour health coverage shall comply with periodic reporting requirements of the commission.

(6) Each agency of state government shall cooperate with the commissioner if requested to provide information for the purposes of this section.

Section 24. KRS 342.375 is amended to read as follows:

Every policy or contract of workers' compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to every one of his employees subject to this chapter, except as otherwise provided in KRS 342.345 ***or in Section 23 of this Act***. However, if specifically authorized by the commissioner, a separate insurance policy may be issued for a specified plant or work location if the liability of ***the*** [~~such~~] employer under this chapter to all his other employees subject to this chapter is otherwise secured and provided that no employee transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

PART 7

PERMANENT PARTIAL DISABILITY, RIB, TELEDYNE, AND REOPENING

Section 25. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For total disability ***due to a work-related injury or occupational disease***, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during ***that*** [~~such~~] disability. ***Nonwork-related disability shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.***

(b) For permanent, partial disability, ***where an employee returns to work at a wage equal to or greater than the employee's preinjury wage,*** sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, [~~or by his percentage of disability as determined under KRS 342.0011(11), whichever is greater,~~] for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks***, subject to the provisions of subsection (4) of this section. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph***. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) For permanent, partial disability, except all cases described in subsection (1)(b) of this section, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, or under KRS 342.0011(11), whichever is greater, for a maximum period from the date the disability arises, of four hundred twenty-five (425) weeks, subject, however, to the provisions of subsection (4) of this section. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) ***Subject to the limitations contained in subsection (4) of this section,*** when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after ***the*** [~~such~~] death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both [~~such~~] a widow or widower and such a child or children, to ***the*** [~~such~~] widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of ***those*** [~~such~~] benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no [~~such~~] widow or widower but such a child or children, then to ***the*** [~~such~~] child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of ***those*** [~~such~~] benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in [~~such~~] proportions ***that*** [~~as~~] the ***commissioner provides*** [~~board may provide~~] by ***administrative*** regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if ***the*** [~~such~~] proportioned benefits remain unpaid, to be paid in a lump sum.

(4) If the injury or last exposure occurs prior to the employee's sixty-fifth birthday, any income benefits awarded under KRS 342.750, 342.316, 342.730 or 342.732 shall be reduced by ten percent (10%) beginning at age sixty-five (65); ten percent (10%) at age sixty-six (66); and an additional twenty percent (20%) each year thereafter until age seventy (70). However, if the injury or last exposure occurs at or after age sixty-five (65) but before age sixty-eight (68), income benefits shall be payable to the employee as awarded for two (2) years and thereafter the employee shall receive benefits as though the award had been made prior to age sixty-five (65) with the benefits continuing until age seventy (70). Income benefits shall be paid only until the employee's seventieth birthday, unless the injury or last exposure occurs on or after the employee's sixty-eighth birthday, in which event income benefits shall be payable as awarded for two (2) years without the reduction provided for by this subsection.

Section 26. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by two (2) X-rays and reports of the X-rays which conform to the standards for X-rays contained in subsection (2) of KRS 342.316, he shall award a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. ***These benefits shall be paid directly to the employee only if the employee is not working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), in which event the one (1) time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)*** [~~The one (1) time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040, by the employee while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employee leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge. Based upon this examination, the administrative law judge may make appropriate findings and enter an award if indicated~~].

(b) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, [~~or~~] 1/2, ***2/1, 2/2, or 2/3,*** based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(c) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, [~~or~~] 1/2, ***2/1, 2/2, or 2/3,*** based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the Guides to the Evaluation of Permanent Impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during ***the*** [~~such~~] disability***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(d) If the administrative law judge finds that an employee has occupational pneumoconiosis with a radiographic classification of category [~~2/1, 2/2, 2/3,~~] 3/2, 3/3, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to ***the*** [~~such~~] occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) In no event shall income benefits awarded under paragraphs (a) or (b) of subsection (1) of this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

Section 27. KRS 342.125 is amended to read as follows:

(1) ***(a) In claims where an award or order is entered pursuant to KRS 342.730(1)(a) or (1)(b), and*** upon its own motion or upon the application of any party and a showing of change of occupational disability, mistake or fraud***,*** or newly***-***discovered evidence, the administrative law judge may at any time reopen and review any award or order, except as provided in subsection (2) of this section, ending, diminishing***,*** or increasing the compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke his previous order, sending immediately to the parties a copy of his subsequent order or award. ***Any final award increasing or diminishing benefits shall require a showing of a change in occupational disability.***

(b) In claims where an award or order is entered pursuant to KRS 342.730(1)(c), and upon its own motion or upon the application of any party and a showing of change of physical and medical condition, mistake, or fraud, or newly-discovered evidence, the administrative law judge may at any time reopen and review any award or order, except as provided in subsection (2) of this section, ending, diminishing, or increasing the compensation previously awarded, within the maximum and minimum provided in this chapter or the administrative law judge may change or revoke his previous order, sending immediately to the parties a copy of his subsequent order or award. Any final award increasing or diminishing benefits shall require a showing of a change in occupational disability.

(c) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding hereunder but shall not affect the previous order or award as to any sums already paid thereunder. The employer shall not suspend the payment of benefits during the pendency of any reopening procedures. ***Review shall be made only if the motion is filed during the compensable period for which an award or settlement had been made. A lump-sum settlement shall not reduce the period of time for reopening. If a claim is reopened during the initial compensable period for permanent partial disability and an increase is awarded, the benefit period shall not extend beyond the maximum period of four hundred twenty-five (425) weeks unless it is determined that the employee is totally disabled.***

(2) (a) Upon the application of the affected employee, and a showing of progression of his previously diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to ***that*** [~~such~~] pneumoconiosis, the administrative law judge may review an award of a retraining incentive benefit because of ***the*** [~~such~~] diagnosis, and upon a finding of respiratory impairment due to ***that*** [~~such~~] pneumoconiosis shall make an award for benefits as provided in KRS 342.732. Such a reopening may also occur upon a showing of progression of respiratory impairment in a claim for which benefits were previously awarded under the provisions of KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits previously awarded and, if applicable, also by the amount of income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(3) Where an agreement has become an award by approval of the administrative law judge, and a reopening and review of ***that*** ~~[such an]~~ award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

Section 28. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in

paragraphs (a), (b), and (d) of subsection (1) shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

(6) If death occurs as a direct result of a work related injury, and the deceased has no statutory dependents, as determined by this section, a lump-sum payment of $10,000 shall be paid to his estate, in addition to the amount provided for in KRS 342.720; provided, however, that the lump-sum payment shall be reduced by any income benefits previously paid on account of that injury.

(7) All benefits awarded pursuant to this section shall be subject to the limitations contained in KRS 342.730(4).

Section 29. KRS 342.143 is amended to read as follows:

For the purposes of this chapter the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. ***The*** [~~Such~~] average weekly wage shall be certified to the commissioner by the Cabinet for Human Resources in a manner prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] by ***administrative*** regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. ***Notwithstanding the provisions of this section, KRS 342.740, 342.140, or any other provision of this chapter, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined to be in effect in the calendar year of 1994. If the average weekly wage is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.***

PART 8

ATTORNEY'S FEES

Section 30. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the administrative law judge pursuant to the statutes and administrative regulations. In an original claim, no ***attorney's*** [~~attorney~~] fees shall be allowed or approved against any party not represented by ***an*** [~~said~~] attorney, nor shall any ***attorney's*** [~~attorney~~] fee be allowed or approved exceeding an amount equal to twenty percent (20%) of the first twenty-five thousand dollars ($25,000), fifteen percent (15%) of the next ten thousand dollars ($10,000)***,*** and five percent (5%) of the remainder of the amount recovered***, except where applicable in the case of death and then by the use of*** [~~as actuarially determined on past and future benefits according to the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables and~~] the Remarriage Tables of the Dutch Royal Insurance Institute. ***However, in no event shall the attorney's fee exceed ten thousand dollars ($10,000).*** [~~If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used. Provided, however,~~] The administrative law judge, in making an allowance of ***attorney's*** [~~attorney~~] fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The factors to be considered by the administrative law judge in making the allowance of ***an attorney's*** [~~attorney~~] fees shall include, but not necessarily be limited to: nature, scope, and quality of the attorney's services; level of skill and competence required of the attorney in rendering the services; results achieved; experience and skill level of the attorney; and contingent nature of the case. [~~In the order making the allowance of attorney fees, the administrative law judge shall set forth findings sufficient to support the amount approved.~~] The administrative law judge may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 shall result in an award of an ***attorney's*** [~~attorney~~] fee not exceeding seven hundred fifty dollars ($750).

(2) ***(a)*** No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the

administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an ***attorney's*** [~~attorney~~] fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The ***attorney's*** [~~attorney~~] fee shall be paid in one (1) of the following ways:

[~~(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or~~]

1.(b) The claimant may pay the attorney's fee out of his personal funds ***or from the proceeds of a lump-sum settlement***; or

2.[~~(c)~~] The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid***, commuting sufficient sums to pay the fee***.

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee[~~,~~] is to be paid. His selection and statement that he fully understands the method to be used shall be submitted ***by his attorney***, on a notarized form signed by the claimant, [~~by his attorney~~] at the time the motion for approval of the attorney's fee is submitted. The ***commissioner*** [~~board~~] shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of ***an attorney's*** [~~attorney~~] fees and an explanation in nontechnical language of each method.

(4) The General Assembly declares that by the enactment of subsection (2)(b) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of ***those*** [~~such~~] claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to ***this*** [~~such~~] legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5) The administrative law judge shall approve any contract between attorney and client if the ***fees are reviewed and approved by the administrative law judge pursuant to subsection (1) of this section and if the*** limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316, the ***attorney's*** [~~attorney~~] fee shall not exceed an amount equal to seven hundred fifty dollars ($750).

(b) In all other claims, the fee of the attorney shall not exceed the amounts provided in subsection (1) of this section.

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an ***attorney's*** [~~attorney~~] fee may be awarded by the administrative law judge. In awarding the ***attorney's*** [~~attorney~~] fee, the administrative law judge shall consider the factors set forth in subsection (1) of this section.

(b) Thereafter, the administrative law judge shall fix the ***attorney's*** [~~attorney~~] fee. No ***attorney's*** [~~attorney~~] fee shall be allowed or approved against any party not represented by ***that*** [~~said~~] attorney, nor shall any ***attorney's*** [~~attorney~~] fee be allowed or approved exceeding the amounts provided in subsection (1) of this section applicable to any additional amount recovered. If there is no additional amount recovered in a reopened claim, there shall be no ***attorney's*** [~~attorney~~] fee.

PART 9

SPECIAL FUND - SCOPE AND COVERAGE

Section 31. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may name the special fund as a party in the original application for benefits, or either party shall ***as soon as practicable***, by motion [~~not later than forty-five (45) days prior to the first scheduled prehearing conference~~], unless there is a showing of good cause, request the administrative law judge to and the administrative law judge shall, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employee is found to have a dormant nondisabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) All motions to join the special fund shall include proper allegations demonstrating the basis for joinder and certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant.

(4) Failure to move for joinder of the special fund within the time limit prescribed by this section, without a showing of good cause, shall bar any recovery against the special fund.

(5) When the special fund has been made a party, the administrative law judge may direct the procedures provided in KRS 342.121.

(6) If it is found that the employee is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employee is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the administrative law judge which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(7) The remaining compensation for which such resulting condition would entitle the employee, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, but excluding all compensation which the provisions of this chapter would have afforded on account of prior disabling disease or injury had it been compensated thereunder, shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employee under such regulations as the secretary of finance and administration may provide for such purpose.

(8) In making the computation for the apportionment of benefits under this section, the administrative law judge shall determine the amount of the employee's weekly income benefits and apportion the award ***commencing with*** ~~[between]~~ the employer and special fund as follows:

(a) For benefits awarded under ***this chapter*** ~~[KRS 342.730(1)(b)]~~, the portions shall be based on the number of weeks stated therein;

(b) ***In instances where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, unless otherwise agreed by all parties*** ~~[For all other benefits awarded under this chapter, except retraining incentive benefits awarded pursuant to KRS 342.732, the portions shall be based on the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables. If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used]~~.

Section 32. KRS 342.1202 is amended to read as follows:

(1) An award for income benefits for permanent total or permanent partial disability under this chapter based, in whole or in part, on a pre-existing disease or pre-existing condition of the back, or of the heart shall be apportioned, by the administrative law judge, fifty percent (50%) to the employer and fifty percent (50%) to the special fund. Apportionment required by this section shall not be a cause of appeal.

(2) The special fund's liability for income benefits for all other injury claims shall not exceed fifty percent (50%) of the income benefits awarded for permanent disability. In those injury claims where the administrative law judge determines that the apportionment to the special fund under KRS 342.120 exceeds fifty percent (50%) of the award of permanent disability, that portion of the award exceeding fifty percent (50%) shall be paid by the employer.

PART 10

SPECIAL FUND ASSESSMENTS, KWCFC, AND DEDUCTIBLE POLICIES

Section 33. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Division of Special Fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and, financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards and Mediation and the Office of Labor-Management Relations, as reflected in the enacted budget of the Commonwealth enacted by the General Assembly, a special fund assessment at the rate of sixteen and nine-tenths percent (16.9%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1990, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after January 1, 1990, a special fund assessment at the rate of sixteen and nine-tenths percent (16.9%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty-seven percent (47%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1990, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1990, an additional assessment at the rate of forty-seven percent (47%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) ~~[On November 15, 1991, and]~~ Each November 15, ~~[thereafter,]~~ the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for ***the*** ~~[such]~~ past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively, during the next annual period beginning on January 1 of each year. On or before December 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on January 1, of each year, unless modified by the General Assembly.

(3) ***(a) Notwithstanding the assessment rates in subsection (1) of this section or the special fund assessment amounts specified in subsection (2) of this section, for calendar year 1995, the funding commission shall impose a special fund assessment rate necessary to produce seventy-eight million, six hundred sixty-two thousand sixty-two dollars ($78,662,062) and an additional assessment rate necessary to produce forty million dollars ($40,000,000).***

(b) For calendar year 1996 the funding commission shall impose a special fund assessment rate necessary to produce eighty-eight million, six thousand two hundred forty-one dollars ($88,006,241) and an additional assessment rate necessary to produce forty million dollars ($40,000,000).

(c) 1. The assessment rate calculated to produce seventy-eight million, six hundred sixty-two thousand sixty-two dollars ($78,662,062) under paragraph (a) of this subsection shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1995, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

2. In addition to the assessment calculated under subparagraph 1. of this paragraph, the funding commission shall calculate an assessment rate calculated to produce forty million dollars ($40,000,000), pursuant to paragraph (a) of this subsection, which shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1995, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal, and upon the premium, as defined in KRS 342.0011 of every employer engaged in the severance or processing of coal who is carrying his own risk.

(d) 1. The assessment rate calculated to produce eighty-eight million, six thousand two hundred forty-one dollars ($88,006,241) under paragraph (b) of this subsection shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1996, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

2. In addition to the assessment calculated under subparagraph 1. of this paragraph, the funding commission shall calculate an assessment rate calculated to produce forty million dollars ($40,000,000), pursuant to paragraph (b) of this subsection which shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1996 by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal, and upon the premiums, as defined in KRS 342.0011 by every employer engaged in the severance or processing of coal who is carrying his own risk.

(e) On or before December 1 of 1994 and 1995, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the special fund assessment rates established in this subsection which shall become effective on January 1, 1995, and January 1, 1996, respectively, unless modified by the General Assembly.

The payment schedules and other matters relating to the payment of the special fund assessments required pursuant to this section shall apply to the assessment rates and amounts required under this subsection.

(f) For calendar year 1997 and for each calendar year thereafter, the assessment rates and amounts contained in the provisions of subsections (1) and (2) of this section shall apply.

All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(5)[~~(4)~~] *These* [~~Such~~] assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(6)[~~(5)~~] The assessments [~~herein~~] imposed *by this section* may be collected by the insurance carrier from his insured*.*[~~, provided~~] However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, *the* [~~such~~] assessment shall be collected at the same time and in the same proportion as the premium is collected. *The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible.* Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages *imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible* [~~in effect at the time the statement of the premium is sent to the insured~~]. *The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.*

(7) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years.

(8)[~~(6)~~] The funding commission, as part of the collection and auditing of the special fund assessments required *by this section* [~~herein~~], shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each [~~such~~] employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees*.*[~~, provided~~] However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Division of Unemployment Insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(9)[~~(7)~~] Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(10)[~~(8)~~] The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. *The* [~~Such~~] registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(11)[~~(9)~~] The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as [~~herein~~] set out *by this section* and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(12)[~~(10)~~] Notwithstanding any other provision of this section or this chapter, or the Kentucky Revised Statutes, generally, the assessment rates for the special fund, as determined *by this section* [~~herein~~], which were in force and effect on January 1, 1990, shall continue in force and effect until December 1, 1991, and the total amount of funds collected pursuant to *the* [~~such~~] assessment rates shall not be limited to the provisions of this section.

Section 34. KRS 342.1221 is amended to read as follows:

Assessments levied pursuant to KRS 342.122 and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1.5%) per month *or portion thereof without proration* from the date *on which the* [~~such~~] assessment was due and payable. *The funding commission shall have the authority to waive part or all of the penalty, but not the interest, where it is shown to the satisfaction of the commission that failure to timely pay assessments is due to reasonable cause.*

Section 35. KRS 342.1222 is amended to read as follows:

(1) Every insurance carrier shall be entitled to a refund or credited with assessments paid on all canceled or returned premiums, including dividends paid or credited to policyholders***, if the assessments are returned by the insurance carrier to the policyholder in addition to the canceled or returned premium***.

(2) The assessments paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit***, with respect to all claims filed on or after July 13, 1990,*** is made by the insurance carrier within ***four (4) years*** ~~[one (1) year]~~ of the ***date the insurance carrier returns the assessments to the employer*** ~~[end of the policy year]~~.

(3) A claim for refund or credit shall be made on a form prescribed by the funding commission and shall contain ***any*** ~~[such]~~ information ***that*** ~~[as]~~ the funding commission may require.

(4) No insurance carrier shall be entitled to a refund or credit of the assessments paid pursuant to the provisions of this chapter where the assessments have been collected from an employer as provided by KRS 342.122, unless the amount of assessments collected from the employer are refunded to him by the insurance carrier who paid the assessments to the funding commission.

PART 11

SELF-INSURANCE

Section 36. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state or shall furnish to the ***commissioner*** ~~[board]~~ satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case***,*** the ***commissioner*** ~~[board]~~ shall require the deposit of an acceptable security, indemnity, or bond to secure, to ***the*** ~~[such an]~~ extent ~~[as]~~ the ***commissioner*** ~~[board]~~ directs, the payment of compensation liabilities as they are incurred.

(2) Every employer subject to this chapter shall file, or have filed on its behalf, with the ***department*** ~~[Workers' Compensation Board]~~, as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. ***Any insurance carrier or group self-insurance association providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the commissioner, evidence of the employer's compliance with this chapter. The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage.*** Every employer who has complied with the foregoing provision and has subsequently canceled its insurance or its membership in an approved group self-insurance association, as the case may be, shall immediately notify, or have notice given on its behalf to the ***department*** ~~[Workers' Compensation Board]~~ of ***the*** ~~[such]~~ cancellation, the date thereof, and the reasons therefor; and every insurance carrier or group self-insurance association shall in like manner notify the ***commissioner*** ~~[Workers' Compensation Board]~~ upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or group self-insurance association need not set forth its reasons therefor unless requested by the ***commissioner*** ~~[Workers' Compensation Board]~~. The above filings are to be made on the forms prescribed by the ***commissioner*** ~~[board]~~. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of ***the*** ~~[such]~~ notification by the ***commissioner*** ~~[Workers' Compensation Board]~~ unless the employer has obtained other insurance and the ***commissioner*** ~~[Workers' Compensation Board]~~ is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the ***commissioner*** ~~[board]~~ shall promptly notify interested government agencies of ***this*** ~~[said]~~ failure and, with particular reference to employers engaged in coal mining, the ***commissioner*** ~~[board]~~ shall promptly report any ~~[such]~~ failures to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 37. KRS 342.345 is amended to read as follows:

(1) Whenever an employer has complied with the provisions of KRS 342.340 relating to self-insurance, the ***commissioner*** ~~[board]~~ shall issue to ***the*** ~~[such]~~ employer a certificate which shall remain in force for a period fixed by the ***commissioner*** ~~[board]~~. But the ***commissioner*** ~~[board]~~ may, upon at least ***ten (10)*** ~~[sixty (60)]~~ days' notice and a hearing to the employer, revoke ***or suspend*** the certificate upon satisfactory evidence ***that*** ~~[for such]~~ revocation ***or suspension is appropriate*** ~~[having been presented]~~. ***If the commissioner revokes a certificate,*** the ***commissioner*** ~~[board]~~ may thereafter, upon petition of the employer and a hearing, grant a new certificate, but the employer shall not, as a matter of right, be entitled to a hearing for this purpose sooner than six (6) months ***following an order of the commissioner revoking the employer's certificate*** ~~[after a previous revocation of his certificate]~~.

(2) A self-insurer whose certificate to self-insure has been revoked is not relieved of its obligations for compensation to its employees for work-related injuries or occupational diseases that occur during the period of self-insurance. The required security shall be maintained with the commissioner or under the commissioner's control until each claim

for workers' compensation benefits has been paid, been settled, or lapsed under this chapter.

SECTION 38. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 342.340, 342.350, or any administrative regulations promulgated pursuant to those provisions, the commissioner shall annually review the adequacy of the financial or other security requirements contained in administrative regulations, promulgated pursuant to the self-insurance provisions in this chapter. The commissioner shall report the results of the review to the Labor and Industry Committee of the General Assembly and any recommendations for proposed changes to insure the financial soundness of the individual self-insurers and the self-insurance groups authorized pursuant to this chapter. In addition, the commissioner shall report not less often than annually a summary report on the financial soundness of the individual self-insurers and self-insurance groups.

(2) The Labor and Industry Committee of the General Assembly shall annually review the administrative regulations promulgated pursuant to the self-insurance provisions under this chapter.

(3) On July 1, 1994, the Coverage and Compliance Branch of the Department of Workers' Claims in the Labor Cabinet shall be expanded by five (5) employees. These additional employees shall be employed for the purpose of conducting financial audits, examinations, and reviews and other activities necessary to ensure and monitor the financial soundness of the self-insured employers and group self-insurers authorized pursuant to KRS 342.340.

PART 12

RESIDUAL MARKET MECHANISM

SECTION 39. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As a condition of its authority under this chapter to transact workers' compensation insurance in this Commonwealth, every insurer so authorized shall become and remain a signatory to the Kentucky Workers' Compensation Insurance Plan as the plan is formulated or is hereafter amended with the approval of the commissioner. The Kentucky Workers' Compensation Insurance Plan shall be deemed to be a mandated residual market mechanism as defined in KRS 304.13-011(8).

(2) As used in Sections 39 to 46 of this Act, "plan" means the Kentucky Workers' Compensation Insurance Plan referenced in subsection (1) of this section.

SECTION 40. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall prepare a request for proposals and issue invitations for bids pursuant to KRS 45A.365 on contracts providing for at least two (2) but not more than five (5) qualified insurance companies to act as servicing carriers for each year of the plan. The request for proposal shall include establishing and operating a Kentucky office by the plan, loss prevention services, qualified claims administration, auditing, billing and collection procedures, and a fee for the supervision of the plan by the commissioner. The plan shall employ a qualified advisory organization as administrator of the plan.

SECTION 41. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall review filings by the plan within thirty (30) days of the time the filing was made. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within the waiting period to the administrator of the plan that additional time is needed for consideration of the filing.

(2) The commissioner may, when he deems it to be in the public interest, hold a public hearing not later than sixty (60) days after the filing was made to determine whether the filing is excessive, inadequate, or unfairly discriminatory. In the event a hearing is held under the provisions of this subsection, the filing shall become effective thirty (30) days after the hearing unless disapproved by the commissioner pursuant to subsection (3) of this section.

(3) The commissioner shall disapprove a rate filing in whole or in part only if the commissioner demonstrates that the rate filing is excessive, inadequate, or unfairly discriminatory. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within thirty (30) days after the hearing. If a rate filing is disapproved, the commissioner shall issue an appropriate order including findings of fact.

(4) The commissioner shall approve only those plans or agreements that contemplate the use of rates that are actuarially sound to fund all losses and expenses and that are not unfairly discriminatory. The rates charged policyholders in the residual market mechanism shall be set so that the amount received in premiums, together with reasonable investment income earned on those premiums, shall be sufficient to pay claims and losses incurred and reasonable operating expenses of the servicing carriers, in accordance with generally-accepted actuarial standards.

SECTION 42. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No later than June 1 of each year, the plan administrator of the Kentucky Workers' Compensation Insurance Plan shall prepare an actuarial certification of the operations of the plan for the prior year. Notwithstanding the self-funding requirement for the plan in subsection (4) of Section 41 of this Act, if a plan deficit exists, the plan administrator shall prepare and implement a method to equitably distribute the deficit through an assessment on all insurance carriers participating in the voluntary market. The plan shall provide reasonable rules governing the equitable distribution of risks by voluntary direct assignment or a reinsurance arrangement, or both. Any premiums or surcharges collected by the plan in excess of the amount necessary to fund projected ultimate losses and expenses of the plan shall be retained by the plan for future use.

SECTION 43. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall provide for the modification of employers' premium based upon the employer's size and past loss experience. In addition, premium adjustments may be included to reflect employer participation or lack of participation in approved, qualified safety and loss engineering programs, or to reflect actual loss experience that may be better or worse than expected upon the issuance of coverage.

SECTION 44. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The advisory organization shall submit quarterly, within ninety (90) days after the end of each quarter, to the commissioner and the Labor and Industry Committee of the General Assembly a report on the residual market containing the following information:

(1) The number of policies issued;

(2) The number of policies renewed;

(3) The number of policies terminated;

(4) Written premium;

(5) Earned premium;

(6) Paid losses;

(7) Incurred losses; and

(8) Assessments to members and subscribers to cover pool operating gains or losses.

SECTION 45. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner, in conjunction with the State Auditor and the Attorney General, shall conduct an annual independent audit of the operation of the plan and of the servicing carriers to review the cost and effectiveness of the administration of the program. All costs incurred with respect to the annual independent audit shall be paid by the plan.

SECTION 46. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The plan shall be subject to all applicable provisions of this subtitle not in conflict with Sections 39 to 46 of this Act.

PART 13

FRAUD, MISREPRESENTATION, AND PENALTIES

Section 47. KRS 342.165 is amended to read as follows:

(1) If an accident is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful ***administrative*** regulation made thereunder, communicated to ***the*** {~~such~~} employer and relative to installation or maintenance of safety appliances or methods, the compensation for which the employer would otherwise have been liable under this chapter shall be increased fifteen percent (15%) in the amount of each payment. If an accident is caused in any degree by the intentional failure of the employee to use any safety appliance furnished by the employer or to obey any lawful and reasonable {~~rule,~~} order or ***administrative*** regulation of the ***commissioner*** {~~board~~} or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this chapter, shall be decreased fifteen percent (15%) in the amount of each payment.

(2) No compensation shall be payable for work-related injuries if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable falsely represents, in writing, his physical condition or medical history, if all of the following factors are present:

(a) The employee has knowingly and willfully made a false representation as to his physical condition or medical history;

(b) The employer has relied upon the false representation, and this reliance was a substantial factor in the

hiring; and

(c) There is a causal connection between the false representation and the injury for which compensation has been claimed.

Section 48. KRS 342.335 is amended to read as follows:

(1) No person shall knowingly file, or permit to be filed any false or fraudulent claim on his behalf to compensation or other benefits under this chapter, or by fraud, deceit, or misrepresentation procure or cause to be made or receive any payments of compensation or other benefits under this chapter to which the recipient is not lawfully entitled, or conspire with, aid or abet another so to do. No person shall by deceit or misrepresentation or with intent to defraud cause or procure or conspire with, aid or abet another in so causing or procuring any person entitled to compensation or other benefits under this chapter to omit to claim title thereto or to accept the payment of a less sum than that to which he may be lawfully entitled to thereunder.

(2) Any person, as that term is defined in KRS 342.0011, who knowingly, as defined in KRS 501.020, makes any false representation, including misrepresentations of hazards, classifications, payrolls, or other facts by an employer or its agent that are designed to cause a reduction in the employer's premium, for the purpose of or in the course of receiving or providing any service or benefit available under this chapter, shall be subject to the civil or criminal penalties, or both, imposed pursuant to KRS 342.990 for a violation of this subsection. In addition, if a person who violates the provisions of this subsection is also dependent upon a professional license to provide any service or benefit under this chapter, the commissioner shall refer the matter to the appropriate licensing body and recommend revocation of that person's license to work at his profession in the Commonwealth of Kentucky.

Section 49. KRS 342.990 is amended to read as follows:

(1) The commissioner[~~, on behalf of the Workers' Compensation Board,~~] shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) through (8) of this section, or criminal penalties pursuant to subsections (9) and (10) of this section, or both.

(3) The commissioner[~~, on behalf of the board,~~] shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge. The administrative law judge shall issue a ruling thereon within fifteen (15) days of the hearing.

(6) A cited party may appeal the ruling of the administrative law judge within fifteen (15) days following the issuance of the ruling. The appeal shall be made in writing to the [~~Workers' Compensation Board, and the board, through the~~] commissioner ***who***[~~,~~] shall, as soon as practicable, schedule the matter for hearing. The ***commissioner*** [~~board~~] shall issue a ruling on the matter within thirty (30) days of the hearing.

(7) An appeal of the ruling of the ***commissioner*** [~~board~~] on civil penalties imposed in this chapter shall be to the Court of Appeals.

(8) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any employer subject to this chapter[~~,~~] who fails to make the report required by KRS 342.038[~~,~~] within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(b) ***Any employer, insurer on behalf of an employer, or claims administrator acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.***

(c) Any person who violates ***subsection (9) of Section 17 of this Act, subsection (2) of Section 19 of this Act,*** KRS 342.040, [~~342.335,~~] 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(d)[~~(c)~~]Any person who violates any of the provisions of KRS ***342.165(2), 342.335,*** 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense.

(9) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner[~~, on behalf of the board,~~] shall certify ***the*** [~~such~~] inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(10) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates ***subsection (9) of Section 17 of this Act,*** KRS 342.040, ***subsection (2) of Section 19 of this Act*** [~~342.335~~], 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS ***342.165(2), 342.335,*** 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(11) Fines paid pursuant to subsections (8) and (10) of this section shall be paid into the special fund.

PART 14

MISCELLANEOUS PROVISIONS

Section 50. KRS 304.14-110 is amended to read as follows:

All statements and descriptions in any application for an insurance policy or annuity contract, by or on behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions and incorrect statements shall not prevent a recovery under the policy or contract unless either:

(1) Fraudulent; or

(2) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

(3) The insurer in good faith would either not have issued the policy or contract, or would not have issued it at the same premium rate, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise. ***This subsection shall not apply to applications taken for workers' compensation insurance coverage.***

SECTION 51. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every employer, or its designated agent, which is assigned an experience modification factor for workers' compensation in order to determine its workers compensation premium shall be furnished upon request without charge a complete copy of the data and calculations of the experience modification by the insurance company or any entity to which the insurance company may delegate the duty of calculating and promulgating the experience modification or, if applicable, by any self-insurance group of which the employer is a member.

(2) Experience modification shall be based upon all payrolls and claims experience for the applicable period regardless of whether the employer was insured by an insurance company, was a member of a self-insurance group, or was a member of the Kentucky Workers' Compensation Assigned Risk Plan for part or all of the period.

Section 52. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if ***the*** [~~such~~] owner, owners, or qualified partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of ***the*** [~~such~~] owners or partners to provide coverage for their employees and nonqualified partners, if any, required under this chapter.

(2) When an owner, owners, or qualified partners have elected to be included as employees, ***this inclusion*** [~~such~~] shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" means a partner who has entered into a meaningful partnership agreement which shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership and that the partner has made some contribution to the partnership which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership.

(4) For the purposes of this section, "nonqualified partner" means a person who has entered into a partnership agreement which shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership; that the person will not participate in the decision-making of the partnership and will not participate in the profits and losses of the business engaged in by the partnership.

(5) Every partnership filing a partnership agreement for the purpose of exemption pursuant to the provisions of KRS 342.340[~~,~~] shall, on or before April 15 of each year, file with the ***commissioner*** [~~board~~] the partnership identification number assigned to the partnership by the Internal Revenue Service[~~, and shall also file a copy of the tax return of the partnership~~]. ***On or before April 15 of each year, each partnership having an agreement on file with the commissioner shall file a copy of the tax return of the partnership with the commissioner.*** Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement filed with the ***commissioner*** [~~board~~] is composed of "nonqualified partners" as defined in this section, and the ***commissioner*** [~~board~~] shall promptly

notify interested government agencies of the failure of the filed partnership agreement to ***indicate compliance with*** [~~provide exemption of the partnership from the provisions of~~] KRS 342.340. With particular reference to employers engaged in coal mining, the ***commissioner*** [~~board~~] shall promptly report the failure to comply with the provisions of this subsection to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 53. KRS 342.038 is amended to read as follows:

(1) Every employer subject to this chapter shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within one (1) week after the occurrence and knowledge, as provided in KRS 342.185 to 342.200, of an injury to an employee causing his absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the ***department*** [~~board~~] on blanks procured from the ***department*** [~~board~~] for the purpose.

(2) The report shall contain the name, nature, and location of the business of the employer and name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, the nature and cause of the injury, and any other information required by the ***commissioner*** [~~board~~].

(3) ***Every employer subject to this chapter shall report to his workers' compensation insurance carrier or the party responsible for the payment of workers' compensation benefits any work-related injury or disease or alleged work-related injury or disease within three (3) working days of receiving notification of the incident or alleged incident.***

(4) Every employer or insurer subject to this chapter shall file additional reports covering specifically voluntary payments and settlements, and ***any*** [~~such~~] other reports [~~as~~] are required by the ***commissioner*** [~~Workers' Compensation Board~~] by ***administrative*** regulation for the determination of the promptness of voluntary payment and validity and fairness of agreements. In addition, the ***commissioner*** [~~board~~] may require additional information as may be necessary to comply with a federal statute or regulation or any state statute.

(5)[~~(4)~~] Upon the termination of the disability of the injured employee, or if the disability extends beyond a period of sixty (60) days, then also at the expiration of ***that*** [~~such~~] period***,*** the employer shall make a supplementary report to the ***commissioner*** [~~board~~] on blanks procured from the ***department*** [~~board~~] for the purpose.

Section 54. KRS 342.185 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless an application for adjustment of claim for compensation with respect to ***the*** [~~such~~] injury shall have been made with the ***department*** [~~board~~] within two (2) years after the date of the accident, or in case of death, within two (2) years after ***the*** [~~such~~] death, whether or not a claim has been made by the employee himself for compensation. ***The*** [~~Such~~] notice and ***the*** [~~such~~] claim may be given or made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of income benefits [~~as such~~] have been made***,*** [~~voluntarily~~] the filing of an application for adjustment of claim with the ***department*** [~~board~~] within ***the*** [~~such~~] period shall not be required, but shall become requisite within two (2) years following the suspension of [~~such voluntary~~] payments or within two (2) years of the date of the accident, whichever is later.

(2) The right to compensation under this chapter resulting from work-related exposure to the human immunodeficiency virus shall be barred unless notice of the injurious exposure is given in accordance with subsection (1) of this section and unless an application for adjustment of claim for compensation shall have been made with the commissioner within five (5) years after the injurious exposure to the virus.

SECTION 55. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any insurer providing workers' compensation insurance coverage for a Kentucky location shall provide proof of coverage to the commissioner of the Department of Workers' Claims in the Labor Cabinet in accordance with Section 36 of this Act.

Section 56. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against ***the*** [~~such~~] other person to recover damages, or proceed both against the employer for compensation and ***the*** [~~such~~] other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against ***the*** [~~such~~] other person to recover damages, he shall give due and timely notice to the employer ***and the special fund*** of the filing of ***the*** [~~such~~] action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. ***The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).***

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to

the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays ***the*** [~~such~~] compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but ***the*** [~~such~~] proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall ***the*** [~~such~~] claim be barred by limitations, ***if the*** [~~provided such~~] claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for such waiver of remedies.

SECTION 57. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Beginning on January 1, 1995, and pursuant to administrative regulations promulgated under KRS Chapter 13A by the commissioner, each insurance company writing workers' compensation insurance policies in the Commonwealth, every group of self-insurers, and each employer carrying its own risk shall file in the manner directed by the commissioner, detailed claim information contained in the model regulation developed by the National Association of Insurance Commissioners (NAIC) in conjunction with the International Association of Industrial Accident Boards and Commissions (IAIABC).

SECTION 58. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 1994, the Kentucky Occupational Safety and Health Program shall be expanded by sixteen (16) employees. These additional staff shall assist employers in their efforts to improve safety and health practices in their workplaces; to assure compliance with industrial health and safety regulations; and to expedite the processing of contested citations and appeals. These additional expenditures shall be financed by funds collected for the special fund pursuant to KRS 342.122.

Section 59. KRS 342.765 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the office of the Attorney General shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund. Funds to reimburse the Attorney General's office for expenses incurred in litigation and administration in defense of the uninsured employers' fund shall be transferred upon request of the Attorney General's office and approval by the secretary of the Labor Cabinet.

(2) The office of the Attorney General shall report monthly to the Interim Joint Committee on Appropriations and Revenue***, the Interim Joint Committee on Labor and Industry, and the commissioner*** the amount of the agency fund expenditures in each month for the uninsured employers' fund and the nature of ***these*** [~~such~~] expenditures. ***In addition, the Office of the Attorney General shall report quarterly to the commissioner on the amount of funds recouped from uninsured employers.***

Section 60. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order***,*** or decision any party may file a petition for reconsideration of the award, order, or decision of the administrative law judge. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The administrative law judge shall be limited in ***the*** [~~such~~] review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make ***any*** [~~such~~] correction within ten (10) days after submission. ***The failure to file a petition for reconsideration shall not preclude an appeal on any issue.***

PART 15

GENERAL CONFORMING AMENDMENTS

Section 61. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid except that if the administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without

reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the ***fifteenth*** [~~15th~~] day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the ***commissioner*** [~~board~~] of ***the*** [~~such~~] termination or failure to make payments and the ***commissioner*** [~~board~~] shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.

(3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 62. KRS 342.140 is amended to read as follows:

The average weekly wage of the injured employee at the time of the injury or last injurious exposure shall be determined as follows:

(1) If at the time of the injury which resulted in death or disability or the last date of injurious exposure preceding death or disability from an occupational disease:

(a) The wages were fixed by the week, the amount so fixed shall be the average weekly wage;

(b) The wages were fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52);

(c) The wages were fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52);

(d) The wages were fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) the wages (not including overtime or premium pay) of said employee earned in the employ of the employer in the first, second, third, or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the injury.

(e) The employee had been in the employ of the employer less than thirteen (13) calendar weeks immediately preceding the injury, his average weekly wage shall be computed under paragraph (d), taking the wages (not including overtime or premium pay) for ***that*** [~~such~~] purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation ***with the employer at the time of injury***.

(f) The hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where ***the*** [~~such~~] services are rendered by paid employees.

(2) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the injury.

(3) In the case of volunteer firemen, police, and civil defense members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(4) If the employee was a minor, apprentice, or trainee when injured, and it is established that under normal conditions his wages should be expected to increase during the period of disability, that fact may be considered in computing his average weekly wage.

(5) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of ***the*** [~~such~~] employment prior to the injury, his wages from all ***the*** [~~such~~] employers shall be considered as if earned from the employer liable for compensation.

(6) The term "wages" as used in this section and KRS 342.143 means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, and fuel or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer to the extent ***the*** [~~such~~] gratuities are reported for income tax purposes.

(7) The ***commissioner*** [~~board~~] shall, from time to time, based upon the best available information, determine by ***administrative*** regulation industries which ordinarily do not have a full working day for five (5) days in every week. In ***those*** [~~such~~] industries, compensation shall be computed at the average weekly wage earned by the employee at the time of injury reckoning wages as earned while working full time. "At full time" as used ***in this subsection*** [~~herein~~] means a full working day for five (5) working days in every week regardless of whether the injured employee actually worked all or part of the time.

Section 63. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required ***by this subsection*** [~~herein~~], shall be the same as, and in accordance with, state travel ***administrative*** regulations and standards promulgated and established pursuant to KRS Chapter ***45*** [~~18A~~].

(3) If an employee refuses to submit himself to or in any way obstructs ***the*** [~~such~~] examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the administrative law judge may require.

(5) The ***department*** [~~board~~] shall supply forms for the report.

Section 64. KRS 342.235 is amended to read as follows:

The ***commissioner*** [~~board~~] and [~~its~~] employees or authorized representatives ***of the department*** shall, for traveling necessitated by the discharge of official duties, be reimbursed for transportation actually paid for, not exceeding the regular fare over the most direct route, and meals and lodging actually paid for.

Section 65. KRS 342.240 is amended to read as follows:

The ***department*** [~~board~~] shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The ***commissioner*** [~~board~~] shall provide necessary supplies, books, [~~and~~] periodicals, and maps and shall provide [~~itself with~~] a seal for the authentication of [~~its~~] orders, awards, or proceedings [~~and those~~] of the administrative law judges, on which shall be inserted the words "***Department of Workers' Claims*** [~~Workers' Compensation Board~~], State of Kentucky, official seal." The board and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the ***commissioner*** [~~board~~], all actions or proceedings against ***the board*** [~~it~~] or a member in his official capacity, or against an administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 66. KRS 342.260 is amended to read as follows:

(1) The ***commissioner*** [~~board~~] shall prepare [~~such~~] administrative regulations as ***he*** [~~it~~] considers necessary to carry on ***the*** [~~its~~] work ***of the department*** and the work of the administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.

(2) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof or any administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined ***those*** [~~such~~] parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(3) The sheriff shall serve all subpoenas of the board and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to ***the*** [~~such~~] subpoena of the board or any administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.

(4) The Circuit Court shall, on application of the board, any member thereof, or any administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 67. KRS 342.285 is amended to read as follows:

(1) An award or order of the administrative law judge as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions of fact, but either party may in accordance with administrative regulations promulgated by the ***commissioner*** [~~board~~] appeal to the Workers' Compensation Board for the review of ***the*** [~~such~~] order or award.

(2) No new or additional evidence may be introduced before the board except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling, or award, but the board shall otherwise hear the appeal upon the record as certified by the administrative law judge and shall dispose of the appeal in summary manner. The board shall not substitute its judgment for that of the administrative law judge as to the weight of evidence on questions of fact, its review being limited to determining whether or not:

(a) The administrative law judge acted without or in excess of his powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the provisions of this chapter;

(d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or

(e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(3) Within thirty (30) days from final submission, the board shall enter its decision affirming, modifying, or setting aside the order, decision, or award, or in its discretion remanding the claim to the administrative law judge for further proceedings in conformity with the direction of the board. The board may, before decision and upon a sufficient showing of fact, remand the claim to the administrative law judge.

Section 68. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employee was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time, except as otherwise provided in paragraph (a) of subsection (10) of this section; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, except that the time of the beginning of retraining incentive benefits awarded under KRS 342.732 shall be the date the award for ***those*** [~~such~~] benefits by the administrative law judge becomes final.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to ***the*** [~~such~~] disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted ***the*** [~~such~~] disease, or a diagnosis of ***the*** [~~such~~] disease is first communicated to him, whichever shall first occur;

(b) Except as provided in paragraph (d) of this subsection, the procedure with respect to filing of claims shall be as follows:

1. a. The application shall set forth the complete work history of the applicant with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The reports shall be made by duly licensed physicians. [~~Within one hundred and eighty (180) days following October 26, 1987,~~] The ***commissioner*** [~~board~~] shall promulgate administrative regulations which prescribe the format of the medical reports required ***by this section*** [~~herein~~] and the manner in which ***the*** [~~such~~] reports shall be completed.

b. For coal-related occupational pneumoconiosis claims, each clinical examination shall include chest X-ray examinations and spirometric tests.

c. For other compensable occupational pneumoconiosis claims, each clinical examination shall include X-ray examinations and appropriate pulmonary function tests.

2. To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust, shall comply with accepted medical standards as follows:

a. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

b. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and the 1978 ATS epidemiology standardization project. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The ***commissioner*** [~~board~~] shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of subsection (2)(b) of this section. The ***commissioner*** [~~board~~] shall periodically review the applicability of the spirometric test values contained in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

(c) Except as provided in paragraph (d) of this subsection, the procedure with respect to the determination of claims shall be as follows:

1. Immediately upon receipt of said application for adjustment of claim, the commissioner shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim;

2. Upon receipt of notice of the claim***,*** the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. Within thirty (30) days of any such examination, the claimant or his representative shall be furnished a copy of said medical report by the party requesting such report. Also, the employer, the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at ***the employer's*** [~~their~~] expense, including a reasonable sum for travel. Within thirty (30) days of any ***vocational*** [~~such~~] examination, the claimant or his representative, shall be furnished a copy of ***that*** [~~said~~] vocational report by the party requesting ***that*** [~~such~~] report; and

3. Within sixty (60) days of the receipt of the claim, the employer, the special fund, and any other interested party shall notify the ***commissioner*** [~~board~~] and the claimant whether or not the claim will be resisted. If the claim is not resisted, then an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall set a date for a prehearing conference and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] shall be followed. Upon request of an interested party and a showing of good cause, the administrative law judge may extend, one (1) time, the time period for filing a notice of resistance as prescribed in this subparagraph, ***but the*** [~~provided said~~] extension shall not exceed thirty (30) days.

(d) For claims filed under subsection (1)(a) of KRS 342.732, the procedure shall be as follows:

1. For retraining incentive benefits under KRS 342.732, the claimant shall file two (2) X-rays and the reports thereof which shall conform to the standard for X-rays contained ***in this subsection*** [~~herein~~].

2. The commissioner shall notify the affected employer of ***the*** [~~such~~] claim and shall furnish him with a full and complete copy of the claim.

3. Within sixty (60) days of the receipt of the claim, the employer shall notify the commissioner and the claimant whether or not the claim will be resisted. If the claim is not resisted, an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall notify the affected employee thereof. In litigated claims, the regular procedures prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] shall be followed.

(3) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the ***commissioner*** [~~Workers' Compensation Board~~] within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within ***that*** [~~said~~] period, unless a claim therefor be filed with the ***commissioner*** [~~Workers' Compensation Board~~] within three (3) years after ***the*** [~~such~~] death; ***but*** [~~provided, however,~~] that notice of [~~such~~] claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employee and its cause was known to the employer. [~~Provided,~~] However, [~~that~~] the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the ***commissioner*** [~~Workers' Compensation Board~~] within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income or retraining incentive benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(4) The amount of compensation payable for disability due to occupational disease or for death from ***the*** [~~such~~] disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but***:***

(a) In no event ***shall the payment*** [~~to~~] exceed ***the*** [~~such~~] amounts ***that*** [~~as~~] were in effect at the time of the last injurious exposure***;***[~~, and provided further, that~~]

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later***;***[~~,~~] and

(c) [~~provided further, that~~] In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, ***and*** an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section.

(5) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(6) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of ***the occupational*** [~~such~~] disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration***,*** and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(7) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, ***except*** [~~save~~] only ***for*** [~~to~~] after-born children of a marriage existing at the beginning of such disability.

(8) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of ***the*** [~~such~~] cause, that the claim for injury, disability***,*** or death which was the basis for ***his*** [~~such~~] application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for [~~such~~] injury, disability***,*** or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and [~~such~~] compensation may be awarded ***that*** [~~as~~] is warranted by the whole evidence pursuant to the provisions of this chapter. When [~~such~~] amendment ***of this type*** is submitted, further or additional evidence may be heard by the administrative law judge when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of

a claim under provisions of this chapter, if given or done within the time required ***by this subsection*** [~~herein~~].

(9) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided ***in this chapter*** [~~herein~~].

(10) (a) Except as provided in paragraph (c) of this subsection, the employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employee was last exposed to the hazard of ***that*** [~~such~~] occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the ***commissioner*** [~~board~~] may provide for such purpose; and

(b) In all claims for compensation partially payable by the special fund, the Director of the Division of the Special Fund shall be designated as codefendant.

(c) The employer in whose employment the employee was last exposed to the hazard of the disease shall alone be liable for payment of retraining incentive benefits awarded under KRS 342.732.

Section 69. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340, groups of employers may form, either among themselves or with employers in other states, mutual insurance associations***,*** or reciprocal or interinsurance exchanges subject to the insurance laws of this state and ***any*** [~~such~~] reasonable conditions and restrictions not inconsistent therewith [~~as may be~~] fixed by the ***commissioner*** [~~board~~]. Membership in ***these*** [~~such~~] mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The ***commissioner*** [~~board~~] may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make ***a*** [~~such~~] deposit with a bank or trust company of this state ***that*** [~~as~~] shall in either case be approved by the ***commissioner*** [~~board~~] for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make [~~such~~] a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(4) In addition, the ***commissioner***[~~board~~], under ***administrative*** [~~rules and~~] regulations ***that he*** [~~as it~~] shall prescribe, may permit eleven (11) or more employers or two (2) or more city, county, municipal, or urban-county employers or their agencies to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. Employers securing certification as group self-insurers are regulated by the ***administrative*** [~~rules and~~] regulations drawn by the ***commissioner*** [~~Workers' Compensation Board~~] and are not to be in any way subject to the provisions of subsections (1), (2), and (3) of this section; [~~provided,~~] however, [~~that~~] the Governor may assign the regulatory authority under this subsection to another board or agency pursuant to KRS 12.028.

Section 70. KRS 342.380 is amended to read as follows:

No policy of insurance or rider to be used therewith shall be issued or delivered until a copy of its form has been filed with the commissioner [~~of the Department of Insurance~~] at least thirty (30) days before such issue or delivery, unless before the expiration of thirty (30) days the commissioner has approved the form thereof in writing; nor if the commissioner notifies the company in writing that in his opinion the form of the policy or rider does not comply with the laws of this state, specifying fully the reasons for his opinion. Upon petition of the company***,*** the decision of the commissioner shall be subject to review by the Franklin Circuit Court and to appeal therefrom to the Court of Appeals.

Section 71. KRS 342.382 is amended to read as follows:

(1) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on

its workers' compensation experience only to the Department of ***Workers' Claims***[~~Insurance~~] and the Workers' Compensation Advisory Council each year***,*** and ***that*** [~~such~~] information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment gain or loss.

(2) [~~(a)~~] The first report of the information required in subsection (1) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988. Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (1) of this section broken down by year for the current and two (2) preceding years.

[~~(b) Within thirty (30) days after March 1, 1989, the Department of Insurance shall commence a review of the rates of all workers' compensation insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within sixty (60) days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department shall order that a new rate schedule be thereafter filed by the filer and shall further specify the manner in which noncompliance shall be corrected.~~]

Section 72. KRS 342.395 is amended to read as follows:

(1) Where an employer is subject to this chapter, then every employee of ***that*** [~~such~~] employer, as a part of his contract of hiring or who may be employed at the time of the acceptance of the provisions of this chapter by ***the*** [~~such~~] employer, shall be deemed to have accepted all the provisions of this chapter and shall be bound thereby unless he shall have filed, prior to the injury or incurrence of occupational disease, written notice to the contrary with the employer; and ***the*** [~~such~~] acceptance shall include all of the provisions of this chapter with respect to traumatic personal injury, silicosis***,*** and any other occupational disease. However, before an employee's written notice of rejection shall be considered effective, the employer ***shall*** [~~must~~] file the employee's notice of rejection with the ***Department of Workers' Claims***[~~Workers' Compensation Board~~]. The ***commissioner of that department*** [~~Workers' Compensation Board~~] shall not give effect to any rejection of this chapter not voluntarily made by the employee. If an employee withdraws his rejection, the employer shall notify the ***commissioner***[~~Workers' Compensation Board~~].

(2) Until [~~such~~] notice to the contrary ***as specified in subsection (1) of this section*** is [~~so~~] given to the employer, the measure of liability of ***the*** [~~such~~] employer shall be determined according to the compensation provisions of this chapter. Any [~~such~~] employee, may, without prejudice to any existing right or claim, withdraw his election to reject this chapter by filing with the employer a written notice of withdrawal, stating the date when the withdrawal is to become effective. Following the filing of ***that*** [~~such~~] notice, the status of the party withdrawing shall become the same as if the former election to reject this chapter had not been made, except that withdrawal shall not be effective as to any injury sustained or disease incurred less than one (1) week after the notice is filed.

Section 73. KRS 342.402 is amended to read as follows:

The ***commissioner***[~~Workers' Compensation Board~~], upon showing a certification of noncompliance, may temporarily restrain or temporarily or permanently enjoin the further operation of any employer covered by this chapter. ***The*** [~~Such~~] action shall be brought in Franklin Circuit Court.

Section 74. KRS 342.425 is amended to read as follows:

Upon the request of the ***commissioner***[~~board~~], the Attorney General, or, under his direction, the Commonwealth's attorney or county attorney of any county, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this chapter arising within his jurisdiction, and shall defend in like manner all actions or proceedings brought against the ***department***[~~board~~], the ***employees*** [~~members~~] thereof***, board members,*** or administrative law judges in their official capacity.

Section 75. KRS 342.430 is amended to read as follows:

The ***commissioner*** [~~board~~] shall prepare and furnish, free of charge, blank forms of all notices, claims, reports, proofs, and other blank forms and literature which ***he*** [~~it~~] considers proper and requisite to the efficient administration of this chapter. ***He*** [~~It~~] may authorize the publication and distribution of ***these*** [~~such~~] blanks by employers and their insurers in manner and form provided by ***him***[~~it~~], and shall ***promulgate administrative regulations*** [~~make rules~~] for their distribution so that they may be readily available.

Section 76. KRS 342.435 is amended to read as follows:

Annually on or before the ***fifteenth*** [~~15th~~] day of December, the ***commissioner*** [~~board~~] shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the ***commissioner*** [~~board~~] deems proper to call to the attention of the Governor, including any recommendations ***he*** [~~it~~] may have to make, and it shall be the duty of the ***commissioner*** [~~board~~] to publish and distribute among employers and employees ***any*** [~~such~~] general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to ***the*** [~~such~~] provisions of the general laws governing public printing [~~as may be~~] applicable thereto.

Section 77. KRS 342.650 is amended to read as follows:

The following employees are exempt from the coverage of this chapter:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two (2) employees each regularly employed forty (40) or more hours a week in ***domestic servant*** [~~such~~] employment.

(2) Any person employed, for not exceeding twenty (20) consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or if the employer has no other employees subject to this chapter, in or about the premises where ***that*** [~~such~~] employer carries on his trade, business, or profession.

(3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States, except those persons covered under Title IV, Public Law 91-173, 91st Congress, commonly referred to as the Black Lung Benefits of the Federal Coal Mine Health and Safety Act of 1969, or as amended.

(5) Any person employed in agriculture.

(6) Any person who would otherwise be covered but who elects not to be covered in accordance with the ***administrative*** [~~rules and~~] regulations promulgated by the ***commissioner***[~~board~~].

(7) Any person participating as a driver or passenger in a voluntary vanpool or carpool program while that person is on the way to or from his place of employment. For the purposes of this subsection, carpool or vanpool means any method by which two (2) or more employees are transported from their residences to their places of employment.

Section 78. KRS 342.660 is amended to read as follows:

(1) An employer who has in his employment any employee exempted under KRS 342.650 may elect to be subject to this chapter. ***This*** [~~Such~~] election on the part of the employer shall be made by the employer securing the payment of compensation to ***these*** [~~such~~] exempted employees in accordance with KRS 342.340. Any employee, otherwise exempted under KRS 342.650, of ***the*** [~~such~~] employer shall be deemed to have elected to come under this chapter, if at the time of the injury for which liability is claimed, ***his*** [~~such~~] employer has in force an election to be subject to this chapter with respect to the employment in which ***the*** [~~such~~] employee was injured and ***the*** [~~such~~] employee has not, either upon entering into employment or within five (5) days after the filing of an election by the employer given to ***his*** [~~such~~] employer and to the ***commissioner*** [~~board~~] notice in writing that he elects not to be subject to this chapter.

(2) ***An*** [~~Such~~] employer ***within the scope of subsection (1) of this section***, within five (5) days after securing the payment of compensation in accordance with KRS 342.340, shall give the ***commissioner*** [~~board~~] written notice of his election to be subject to this chapter. ***The*** [~~Such~~] employer shall post and keep posted on the premises where any employee or employees, otherwise exempted under KRS 342.650, works, printed notices furnished by the ***commissioner*** [~~board~~] stating his acceptance of this chapter. Failure to give the notices required by this paragraph shall not void or impair the employer's election to be subject to or relieve him of any liability under this chapter.

(3) Any employer who has complied with subsection (2) of this section may withdraw his acceptance of this chapter, by

filing written notice with the ***commissioner*** ~~[board]~~ of the withdrawal of his acceptance. ***A*** ~~[Such]~~ withdrawal shall become effective 60 days after the filing of ~~[such]~~ notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The withdrawal shall not be effective until the employer shall theretofore post notice of ***the*** ~~[such]~~ withdrawal where the affected employee or employees work or shall otherwise notify ***the*** ~~[such]~~ employees of ~~[such]~~ withdrawal.

Section 79. KRS 342.670 is amended to read as follows:

(1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this chapter had ***that*** ~~[such]~~ injury occurred within this state, ***that*** ~~[such]~~ employee, or in the event of his death resulting from ***that*** ~~[such]~~ injury, his dependents, shall be entitled to the benefits provided by this chapter, ***if*** ~~[provided that]~~ at the time of ***the*** ~~[such]~~ injury:

(a) His employment is principally localized in this state, or

(b) He is working under a contract of hire made in this state in employment not principally localized in any state, or

(c) He is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to his employer, or

(d) He is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, ***if a*** ~~[provided that]~~ claim under this chapter is filed within two (2) years after ***that*** ~~[such]~~ injury or death. If compensation is paid or awarded under this chapter:

(a) The medical and related benefits furnished or paid for by the employer under ***another jurisdiction's*** ~~[such other]~~ workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(b) The total amount of all income benefits paid or awarded the employee under ***another jurisdiction's*** ~~[such other]~~ workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter; ***and***

(c) The total amount of death benefits paid or awarded under ***another jurisdiction's*** ~~[such other]~~ workers' compensation law shall be credited against the total amount of death benefits due under this chapter***.***~~[;]~~

(3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the ***commissioner*** ~~[board]~~ a certificate, issued by the commission or agency of ***the*** ~~[such]~~ other state having jurisdiction over workers' compensation claims, certifying that ***the*** ~~[such]~~ employer has secured the payment of compensation under the workers' compensation law of ***the*** ~~[such]~~ other state and that with respect to ***the*** ~~[said]~~ injury ***the*** ~~[such]~~ employee is entitled to the benefits provided under ***that*** ~~[such]~~ law, and that the benefits to which ***the*** ~~[such]~~ employee or his dependents is entitled are at least as great as those to which he would be entitled if the injury occurred and was processed under Kentucky law, under Kentucky coverage. In ***this*** ~~[such]~~ event:

(a) The filing of ***the*** ~~[such]~~ certificate shall constitute an appointment by ***the*** ~~[such]~~ employer or his carrier of the ***commissioner*** ~~[board]~~ as his agent for acceptance of the service of process in any proceeding brought by ***the*** ~~[such]~~ employee or his dependents to enforce his or their rights under this chapter on account of ***the*** ~~[such]~~ injury;

(b) The ***commissioner*** ~~[board]~~ shall send to ***the*** ~~[such]~~ employer or carrier, by certified mail to the address shown on ***the*** ~~[such]~~ certificate, a true copy of any notice of claim or other process served on the ***commissioner*** ~~[board]~~ by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(c) 1. If ***the*** ~~[such]~~ employer is a qualified self-insurer under the workers' compensation law of ***the*** ~~[such]~~ other state, ***the*** ~~[such]~~ employer shall, upon submission of evidence satisfactory to the ***commissioner*** ~~[board]~~, of his ability to meet his liability to ***the*** ~~[such]~~ employee under this chapter, be deemed to be a qualified self-insurer under this chapter;

2. If ***the*** ~~[such]~~ employer's liability under the workers' compensation law of ***the*** ~~[such]~~ other state is insured, ***the*** ~~[such]~~ employer's carrier, as to ***the*** ~~[such]~~ employee or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; ~~[provided,]~~ however, ~~[that]~~ unless its contract with ***the*** ~~[said]~~ employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of ***the*** ~~[such]~~ benefits for which ***the*** ~~[such]~~ insurer would have been liable under the workers' compensation law of ***the*** ~~[such]~~ other state;

(d) If the total amount for which ***the*** ~~[such]~~ employer's insurance is liable under (c) above is less than the total of the compensation benefits to which ***the*** ~~[such]~~ employee is entitled under this chapter, the ***commissioner*** ~~[board]~~

may, if ***he*** [~~it~~] deems it necessary, require the employer to file security, satisfactory to the ***commissioner*** [~~board~~], to secure the payment of benefits due ***the*** [~~such~~] employee or his dependents under this chapter; and

(e) Upon compliance with the preceding requirements of this subsection (3), ***the*** [~~such~~] employer, as to ***the*** [~~such~~] employee only, shall be deemed to have secured the payment of compensation under this chapter.

(4) As used in this section:

(a) "United States" includes only the states of the United States and the District of Columbia;

(b) "State" includes any state of the United States, the District of Columbia, or any province of Canada;

(c) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law;

(d) A person's employment is principally localized in this or another state when:

1. His employer has a place of business in this or ***the*** [~~such~~] other state and he regularly works at or from ***that*** [~~such~~] place of business, or

2. If subparagraph 1. foregoing is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or ***the*** [~~such~~] other state;

(e) An employee whose duties require him to travel regularly in the service of his employer in this and one (1) or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another [~~such~~] state, and, unless ***the*** [~~such~~] other state refuses jurisdiction, ***the*** [~~such~~] agreement shall be given effect under this chapter;

(f) "Workers' compensation law" includes "occupational disease law."

Section 80. KRS 342.720 is amended to read as follows:

If death results from the injury, the employer shall pay the cost of burying in an amount not to exceed four thousand dollars ($4,000) to any person who performed ***the*** [~~such~~] service or incurred the liability for the service, whether or not the employee leaves dependents within the meaning of this chapter. Any such person is hereby authorized to file a petition with the ***commissioner*** [~~board~~] for the fixing of the amount of the service and for an order requiring the employer to pay the cost of the service. If death occurs while the employee is away from his usual place of business or residence, the employer shall be liable for the additional reasonable cost of transportation of the body to the employee's place of residence within the Commonwealth of Kentucky.

Section 81. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter***,*** the average weekly wage of the state shall be determined by the ***commissioner*** [~~board~~] as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. ***This*** [~~Such~~] average weekly wage shall be certified to the ***commissioner*** [~~board~~] by the Cabinet for Human Resources in a manner prescribed by the ***commissioner*** [~~board~~] by ***administrative*** regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of ***an*** [~~such~~] amount that ***increases or decreases*** the minimum weekly income benefits for total disability or death [~~are increased or decreased~~] by $1 or more, or the maximum weekly income benefits for total disability or for death [~~are increased or decreased~~] by $2 or more***,*** computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in ***these*** [~~such~~] limitations shall otherwise be made.

Section 82. KRS 342.790 is amended to read as follows:

When an award is made against an employer who***:***

(1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer***;***[~~,~~] and

(2) Has not made a deposit of security, indemnity***,*** or bond acceptable to the ***commissioner*** [~~board~~] to secure the payment of compensation liability***;*** and

(3) Has failed to make payment of compensation according to the terms of ***that*** [~~such~~] award, the award shall constitute a liquidated claim for damages against ***that*** [~~such~~] employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the ***commissioner*** [~~board~~], and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against ***that***

[~~such~~] employer in the name of the uninsured employers' fund for the collection of ***that*** [~~such~~] award. In ***that*** [~~such~~] action***,*** it shall be sufficient for plaintiff to set forth a copy of the award of the administrative law judge relative to ***the*** [~~such~~] claim as certified by the commissioner and to state that there is due to plaintiff on [~~such~~] account of ***the*** [~~such~~] opinion, order***,*** or award of the administrative law judge a specified sum which plaintiff claims with interest. A certified copy of ***the*** [~~such~~] award in ***the*** [~~such~~] claim shall be attached to the complaint and ***shall constitute*** [~~constitutes~~] prima facie evidence of the truth of the facts therein contained.

Section 83. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon these farmlands, shall have the same privilege.

(4) Residents or nonresidents observing, and participating in any field trial as authorized by the department may observe and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while doing so shall carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the Veterans Administration. He shall forward the copy to the Director of the Division of Law Enforcement of the Department of Fish and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of the certification.

(8) Any resident who is declared totally and permanently disabled by the Federal Social Security Administration or by the state ***Department of Workers' Claims*** [~~Workers' Compensation Board~~] may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses.

(9) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(10) If a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 84. KRS 164.2842 is amended to read as follows:

(1) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%)

disabled for compensation purposes by the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(3) In the absence of certification of permanent and total disability by the Kentucky ***Department of Workers' Claims*** ~~[Workers' Compensation Board]~~, the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.

(6) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 85. KRS 164.515 is amended to read as follows:

(1) The spouse, regardless of age, and any child or orphan of a permanently and totally disabled member of the Kentucky National Guard injured while on state active duty, active duty for training, or inactive duty training, a permanently and totally disabled war veteran or prisoner of war or member of the Armed Services declared missing in action, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education or to any state supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans' Administration or the Department of Defense or if deceased the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans' Administration Records, or the Department of Defense of the United States.

(3) In the absence of certification of permanent and total disability by the Kentucky ***Department of Workers' Claims*** ~~[Workers' Compensation board]~~, the United States Veterans' Administration or the Department of Defense, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse, child or orphan to benefit under this section the disabled member of the National Guard or war veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training with the National Guard or during time of war or the Korean conflict or subsequent periods of federally recognized hostilities or have been disabled by hostile fire in the Armed Forces of the United States, and his discharge therefrom must have been under honorable conditions. He must be a resident or if deceased, was a resident of the Commonwealth of Kentucky.

(6) No provision of this section shall serve to deny these benefits to an eligible spouse, child, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged therefrom under honorable conditions; such period of time spent in the military service to be compensated by like time, beyond the age of twenty-three (23) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

(7) The marriage of an eligible child, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

PART 16

REPEALS

Section 86. The following KRS section is repealed:

342.800 Application to claims – Filing under Federal Coal Mine Health and Safety Act.

PART 17

EFFECTIVE DATES

Section 87. (1) Subsection (25) of Section 1 of this Act relating to the definition of premiums for deductible policies shall be effective retroactively for insurance policies or other evidences of coverage with deductibles in effect on and after January 1, 1994.

(2) The provisions of subsection (6) of Section 33 of this Act that relate to special fund assessments on deductible insurance policies or other evidences of coverage providing a deductible shall be effective retroactively for policies or other evidences of coverage in effect on or after January 1, 1994.

(3) The provisions of Section 35 that relate to refunds or credits for special fund assessments shall be effective retroactively to January 1, 1994.

Section 88. The revised attorney's fee maximum amount contained in Section 30 of this Act shall apply to injuries and occupational diseases occurring on or after the effective date of this Act.

Section 89. Whereas there is a workers' compensation crisis in the Commonwealth; and the projected unfunded liability of the Workers' Compensation special fund is projected to be approximately two billion dollars ($2,000,000,000.00); and the voluntary insurance market in the Commonwealth is rapidly disappearing and approximately fifty percent (50%) of the workers' compensation insurance market is in the Kentucky Workers Compensation Insurance Plan (KWCIP), the workers' compensation residual market mechanism in the Commonwealth; and more than fifty percent (50%) of each workers' compensation benefit dollar is attributable to medical costs, an emergency is declared to exist and the provisions of this Act shall become effective upon their passage and approval by the Governor.

The Senate Floor Amendment No. 16 to the Senate Committee Substitute to **HB 928** is as follows:

Beginning on page 1, line 1, by deleting everything thereafter to the end of the substitute in its entirety; and, by inserting the following in lieu thereof:

"PART 1

DEFINITIONS

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter*,* unless the context otherwise requires:

(1) "Injury" means any work-related harmful change in the human organism, arising out of and in the course of employment, including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting ***the*** ~~[such]~~ disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease***, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury***.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which ***the*** claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims ~~[under the direction and supervision of~~

~~the Workers' Compensation Board~~].

(10) "Board" means the Workers' Compensation Board.

(11) "Disability" means a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employee is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employee's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with ***the*** [~~such~~] farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes ***the Employers Mutual Insurance Authority and*** every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger and surface mining sites, all activities performed at tipple or processing plants that clean, break, size, or treat coal, and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if ***the*** [~~such~~] acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether ***the*** [~~such~~] acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. [~~Provided~~] However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof.

(25) ***(a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for***

deductibles. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the *commissioner* [~~Workers' Compensation Board~~] using generally accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The *commissioner* [~~board~~] shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each [~~such~~] claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of *the* [~~such~~] claims using the adjusted weekly benefit shall then be calculated by the *commissioner* [~~board~~]. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The *commissioner* [~~board~~] shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from [~~board~~] records *of the department* and from the records of the Division of Unemployment Insurance. The *commissioner* [~~board~~] shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The *commissioner* [~~board~~] shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll, calculated using [~~board~~] records *of the department* and *the* Division of Unemployment Insurance data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the ***commissioner,*** [~~board~~] which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on ***the*** [~~such~~] lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the ***commissioner*** [~~board~~] pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured ***the*** [~~such~~] risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured***,*** he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection, except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

(29)[~~(26)~~] "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

PART 2

REORGANIZATION, ADMINISTRATION, AND OMBUDSMAN

Section 2. KRS 336.015 is amended to read as follows:

(1) The secretary of labor shall have the duties, responsibilities, power***,*** and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, ***workers' compensation,*** and all other matters [~~except workers' compensation~~] previously under the jurisdiction of the commissioner and Department of Labor.

(2) The Labor Cabinet shall consist of the Offices of the Secretary, General Counsel, Administrative Services, [~~and~~] Labor-Management Relations***; the Kentucky Workers' Compensation Funding Commission; the Workers' Compensation Board; the Occupational Safety and Health Review Commission;***[~~,~~] and the Departments of Workplace Standards***,*** and [~~of~~] Workers' Claims. The commissioner of the Department of Workplace Standards ***and the Department of Workers' Claims*** within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet.

[~~(3) The secretary may not appoint personnel necessary to perform the functions of the Department of Workers' Claims.~~]

Section 3. KRS 336.020 is amended to read as follows:

(1) The Department of Workplace Standards shall be headed by a commissioner, and shall be divided for administrative purposes into the Divisions of Employment Standards and Mediations; Occupational Safety and Health Compliance; ***and*** Education and Training for Occupational Safety and Health[~~; and Special Fund~~].

(2) The Department of Workers' Claims shall be administered by a [~~Workers' Compensation Board, through a~~] commissioner ***and shall be divided for administrative purposes into the Divisions of Claims Processing and Appeals, Administrative Law Judges, Insurance, and Special Fund***.

Section 4. KRS 336.040 is amended to read as follows:

(1) The ***Labor Cabinet*** [~~department~~] shall exercise all administrative functions of the state concerned with employer-employee relationships, including ***the***[~~:~~]

[~~(a)~~] safety of workers; and

~~[(b) The]~~ workers' compensation ~~[Board]~~.

(2) The department shall:

(a) Promote friendly and cooperative relations between employers and employees;

(b) Accumulate and publish industrial statistics and aid and encourage the development of new industries and the expansion of existing industries in Kentucky;

(c) Encourage, promote, and develop fair practices both by employers and employees; discourage and eliminate as far as practicable all unfair practices by either; and enforce laws relating to unfair practices;

(d) Foster, promote, and develop the welfare of both wage earners and industries in Kentucky;

(e) Improve working and living conditions of employees***,*** and advance their opportunities for profitable employment; and

(f) Inquire into the causes of accidental injuries and occupational diseases arising out of and in the course of employment, and advance measures for the prevention of accidents and occupational diseases and for the improvement of sanitary conditions in places of employment.

Section 5. KRS 342.1228 is amended to read as follows:

The Kentucky Workers' Compensation Funding Commission shall not be subject to the Governor's power of reorganization under KRS Chapter 12***, including attachment or transfer to another organizational unit or administrative body other than the Labor Cabinet***. The Governor may, however, recommend changes in the organization of the commission to the General Assembly at any regular or special session of the General Assembly.

Section 6. KRS 342.1223 is amended to read as follows:

(1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.

(2) The commission shall:

(a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;

(b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386. ~~[Provided, however, the commission shall not invest any of the funds collected pursuant to KRS 342.122 in any corporation, company, partnership, or other business entity, or any bank, investment service firm, or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa;]~~

(c) Report to the General Assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by ***the*** ~~[such]~~ mechanism, including detailed information on the investment of funds and yields thereon;

(d) Recommend to the General Assembly, not later than October 31 of the year prior to each regular legislative session, changes deemed necessary in the level of the assessments imposed in KRS 342.122;

(e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each regular legislative session, a proposed budget for the biennium beginning July 1 following the regular session of the General Assembly;

(f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;

(g) Conduct periodic audits***,*** independently or in cooperation with the Labor Cabinet or the Revenue Cabinet***,*** of all entities subject to the assessments imposed in KRS 342.122; and

(h) Report monthly to the ***Committees*** ~~[Committee]~~ on Appropriations and Revenue ***and on Labor and Industry*** its monthly expenditures of restricted agency funds and the nature of ***the*** ~~[such]~~ expenditures.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established***,*** including, but not limited to, the power:

(a) To sue and be sued, complain, or defend, in its name;

(b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and

(f) To make and promulgate administrative regulations.

(4) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the Kentucky Workers' Compensation Funding Commission shall utilize the investment expertise and advice of the Office of Financial Management and Economic Analysis rather than entering into a consulting contract for investment counseling. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of ***the*** ~~[such]~~ funds.

(5) The commission shall be attached to the ***Labor*** ~~[Revenue]~~ Cabinet for administrative purposes only.

SECTION 7. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall establish an ombudsman program. The functions of the ombudsman shall include:

(a) Serving as an information source for employees, employers, medical, vocational, and rehabilitation personnel, carriers, and self-insurers;

(b) Responding to inquiries and complaints relative to the workers' compensation program;

(c) Advising all parties of their rights and obligations under this chapter; and

(d) Performing other duties as required by the commissioner through administrative regulations promulgated by the commissioner.

(2) The employee, employer, carrier, self-insured administrator, and medical provider shall promptly comply with reasonable information requests from an ombudsman.

(3) The ombudsman program shall be staffed with personnel trained in techniques performed by ombudsmen and who are familiar with medical and vocational rehabilitation principles and knowledgeable about the provisions of this chapter and applicable administrative regulations.

(4) A toll-free telephone number shall be provided throughout the Commonwealth to insure easy access by all parties to the ombudsman program.

Section 8. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of ***the*** ~~[such]~~ department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.
(b) Department of Criminal Justice Training.
(c) Office of Administration.
(d) Department of Corrections.
(e) Parole Board.
(f) Kentucky State Corrections Commission.

2. Education and Humanities Cabinet:
   (a) Department of Education.
      (1) State Board for Elementary and Secondary Education.
      (2) Education Professional Standards Board.
   (b) Department for Libraries and Archives.
   (c) Kentucky Arts Council.
   (d) Kentucky Educational Television.
   (e) Kentucky Historical Society.
   (f) Kentucky Teachers' Retirement System Board of Trustees.
3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.
   (d) Department for Natural Resources.
   (e) Department for Surface Mining Reclamation and Enforcement.
   (f) Department of Law.
   (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
   (a) Department of Highways.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Office of Aeronautics.
   (g) Office of General Counsel.
   (h) Office of Public Relations.
   (i) Office of Personnel Management.
   (j) Office of Minority Affairs.
5. Cabinet for Economic Development:
   (a) Department for Existing Business and Industry.
   (b) Tobacco Research Board.
   (c) Kentucky Development Finance Authority.
   (d) Office of Business and Technology.
   (e) Office of Industrial Development.
6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.

- (h) Kentucky Racing Commission.
- (i) Board of Claims.
- (j) Crime Victims Compensation Board.
- (k) Kentucky Board of Tax Appeals.
- (l) Backside Improvement Commission.

7. Cabinet for Human Resources:
    - (a) Department for Health Services.
    - (b) Department for Employment Services.
    - (c) Department for Social Insurance.
    - (d) Department for Social Services.
    - (e) Department for Medicaid Services.
    - (f) Department for Mental Health and Mental Retardation Services.
    - (g) Unemployment Insurance Commission.
    - (h) Commission for Handicapped Children.
    - (i) Public Assistance Appeals Board.
    - (j) Office of Administrative Services.
    - (k) Office of Communications.
    - (l) Office of General Counsel.
    - (m) Office of Inspector General.
    - (n) Office of Policy and Budget.
    - (o) Office of the Ombudsman.
8. Finance and Administration Cabinet:
    - (a) Office of Legal and Legislative Services.
    - (b) Office of Management and Fiscal Affairs.
    - (c) Office of Historic Properties.
    - (d) Office of Financial Management and Economic Analysis.
    - (e) Office of Risk Management.
    - (f) Department for Administration.
    - (g) Department of Facilities Management.
    - (h) Department of Information Systems.
    - (i) State Property and Buildings Commission.
    - (j) Kentucky Pollution Abatement Authority.
    - (k) Kentucky Savings Bond Authority.
    - (l) Deferred Compensation Systems.
    - (m) Office of Equal Employment Opportunity Contract Compliance.
    - (n) Capital Plaza Authority.
    - (o) County Officials Compensation Board.
    - (p) Financial Disclosure Review Commission.
    - (q) Kentucky Employees Retirement Systems.
    - (r) Commonwealth Credit Union.
    - (s) State Investment Commission.
    - (t) Kentucky Housing Corporation.
    - (u) Governmental Services Center.
    - (v) Kentucky Local Correctional Facilities Construction Authority.
    - (w) Kentucky Turnpike Authority.
    - (x) Historic Properties Advisory Commission.
9. Labor Cabinet:
    - (a) Department of Workplace Standards.

(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Tax Compliance.
(c) Department of Administrative Services.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult and Technical Education.
(b) Department of Vocational Rehabilitation.
(c) Department for the Blind.
(d) State Board for Adult and Technical Education.
(e) Governor's Council on Vocational Education.
(f) Governor's Commission on Literacy.
(g) The State Board for Proprietary Education.
(h) The GED Foundation.
(i) The Kentucky Occupational Information Coordinating Committee.
(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Higher Education.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.

PART 3

WORKERS' COMPENSATION BOARD AND ALJS

Section 9. KRS 342.213 is amended to read as follows:

(1) ~~[Except as provided in subsection (3) of this section]~~ The Governor shall make all appointments to the board***, appoint the administrative law judges, and the commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230*** by choosing ***from*** ~~[one (1) of three (3)]~~ names presented to him by the Workers' Compensation ~~[Board]~~ Nominating Commission.

(2) The Workers' Compensation ~~[Board]~~ Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(d) The members shall annually select a chairman of the nominating commission.

(3) The Governor shall appoint the administrative law judges in accordance with the provisions of KRS 342.230 from a list of names submitted by the Workers' Compensation Nominating Commission. The list shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.230. The administrative law judges shall be subject to Senate confirmation in accordance with KRS 11.160.

(4) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.

(5) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than ninety (90) days after a vacancy occurs.

(b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

(6)~~[(3)]~~ The ***nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute*** ~~[initial appointments to the board created pursuant to KRS 342.215 shall be made by the Governor from a list of nine (9) names submitted by the nominating commission on the first Monday in January, 1988]~~. ***In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars ($100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.***

Section 10. KRS 342.215 is amended to read as follows:

(1) The Workers' Compensation Board is hereby created and established. The board~~[, through the commissioner, shall exercise complete authority over the administration of the Department of Workers' Claims and]~~ shall rule on appeals of decisions rendered by administrative law judges under this chapter. ***The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.***

(2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.

(3) ~~[Of the members first appointed under this section, one (1) shall serve a term of two (2) years; one (1) a term of three (3) years; and one (1) a term of four (4) years, as designated by the Governor at the time of the appointments. Thereafter,]~~ Each term ***of a board member*** shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. ***The Governor shall not appoint a member of the board to fill the unexpired***

term of another board member, nor shall the Governor reappoint a member of the board who has resigned or has been removed from his position prior to the expiration of his term. ~~[Each member of the board shall hold office until his successor is appointed and qualifies.]~~ The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

(4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.

(5) ~~[The terms of all members of the Workers' Compensation Board who are in office prior to January 4, 1988, shall automatically expire one hundred eighty (180) days following January 4, 1988. In addition to rendering decisions, awards and orders, the members shall assist in training the newly appointed full-time members of the Workers' Compensation Board created pursuant to this chapter and the newly employed administrative law judges.~~

~~(6)]~~ Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.

Section 11. KRS 342.228 is amended to read as follows:

(1) The Department of Workers' Claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance***,*** and rehabilitation provisions in this chapter. The department shall be ***administered*** ~~[headed]~~ by a commissioner ***appointed*** ~~[hired]~~ by the ***Governor. The Governor shall select the commissioner from a list of three (3) names submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213. The commissioner appointed by the Governor shall be subject to the consent of the Senate in accordance with KRS 11.160*** ~~[board, who shall be responsible for overseeing the administration of claims and the administration of the insurance, self insurance and rehabilitation provisions of this chapter]~~.

(2) The commissioner shall be an attorney and shall have demonstrated knowledge and experience in the area of workers' compensation, public administration, and administrative law.

Section 12. KRS 342.230 is amended to read as follows:

(1) ~~[Upon the recommendation of]~~ The commissioner, ~~[the board,]~~ within the limits of appropriations therefor ***and except as otherwise specifically provided in this chapter***, shall establish and fill any positions, including medical services and advice, necessary to carry on the ***department's*** ~~[board's]~~ work. The employees of the Department of Workers' Claims, except the commissioner, administrative law judges***,*** and board members, shall be members of the classified service.

(2) The ~~[board shall employ a]~~ commissioner ***of the Department of Workers' Claims***~~[. The commissioner]~~ shall have immediate supervision of the employees of the department, perform ~~[such]~~ duties ~~[as are]~~ assigned him, and have complete authority~~[, on behalf of the board,]~~ to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner ***with the assistance of the board*** shall ***train and instruct the administrative law judges on an on-going basis; assign cases; and monitor the caseloads of the administrative law judges and the Workers' Compensation Board to ensure timely disposition of cases;*** keep and be the custodian of the records of the board and the administrative law judges***;***~~[, shall]~~ annually report the activities of the board and administrative law judges to the Governor***;***~~[,]~~ and ~~[shall]~~ devote his full time to the duties of his office. ***The commissioner shall be paid a salary not less than the salary of a member of the board.*** ~~[He shall receive a salary to be fixed by the board.]~~

(3) The ***Governor*** ~~[board]~~ shall ***appoint,*** ~~[employ]~~ with the consent of the Senate ***in accordance with KRS 11.160*** for a term of four (4) years***,*** not more than ***sixteen (16)*** ~~[fifteen (15)]~~ administrative law judges, each of whom shall ***be an attorney and shall*** have ***five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, or extensive knowledge of workers' compensation law*** ~~[the qualifications of a Circuit Judge, except residence in a district]~~, and shall be paid the same salary ***as a Circuit Judge. The Governor shall appoint the administrative law judges from a list of three (3) names for each administrative law judge position submitted by the Workers' Compensation Nominating Commission created pursuant to KRS 342.213 and for this purpose only, a member of the Workers' Compensation Board shall serve as an ex-officio member of the nominating commission. Each administrative law judge***~~[, shall be subject to removal during the term of employment for violation of the code of judicial ethics, and]~~ may be employed for additional terms of four (4) years with the consent of the Senate ***in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee***. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make ~~[such]~~ rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(4) ***To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education***

seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.

(5) The *Governor* [~~board~~] may at any time remove the commissioner *or any member of the board*. The *commissioner* [~~board~~] may remove any administrative law judge*. A member of the board or an administrative law judge may be removed* for *good cause including:* violation of the code of judicial ethics *or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section*.

(6)[~~(5)~~] Any vacancy in the term of an administrative law judge*, which occurs prior to the expiration of the term,* shall be filled by appointment of the *Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs* [~~board~~], with the consent of the Senate *in accordance with KRS 11.160*, for the remainder of the term. [~~In the event the Senate is not in session at the time of the appointment to fill the vacancy, the consent of the Senate shall be obtained during the time the Senate next convenes.~~]

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill these positions.

(b) Effective at 12 midnight, December 31, 1995, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 1996, the Governor shall make four (4) year appointments to fill these positions.

(c) On January 1, 1996, and January 1, 1998, as provided in paragraphs (a) and (b) of this subsection, and every fourth year thereafter, administrative law judges shall be appointed by the Governor for four (4) year terms and confirmed by the Senate in accordance with KRS 11.160. Confirmation hearings for administrative law judges shall be completed by the end of the regular session every four (4) years thereafter beginning with the 1996 Regular Session. Vacancies shall be filled in accordance with subsection (6) of this section.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties and requirements as those set forth in this section for administrative law judges, and to be subject to removal for the same reasons. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, providing educational opportunities for the administrative law judges, and supervising the work of the employees of the Department of Workers' Claims who provide staff support for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional one thousand dollars ($1,000) per year. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

Section 13. KRS 342.231 is amended to read as follows:

[~~(1) The commissioner of the Department of Workers' Claims shall be paid a salary not to exceed the salary of an administrative law judge as provided in KRS Chapter 342.~~

~~(2)~~] The Labor Cabinet shall report monthly to the Committee on Appropriations and Revenue its monthly expenditures of restricted agency funds and the nature of such expenditures. Separate reporting shall be done by each department within the Labor Cabinet and for general administration and support.

Section 14. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the *commissioner* [~~board~~] for a hearing in regard to the matter at issue and for a ruling thereon. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after *the* [~~such~~] death, or within two (2) years after the cessation of voluntary payments, if any have been made.

(2) Except with respect to uncontested claims for retraining incentive benefits by reason of occupational pneumoconiosis related to exposure to coal dust, or for disability or death by reason of occupational diseases, within thirty (30) days after the application has been received the commissioner shall set the date for a prehearing conference, to be held as soon as practicable in view of the matter involved, and shall notify the parties at issue of the time and place of the prehearing conference.

(3) The prehearing conference shall be held at or convenient to the place where the employee resides, provided that such prehearing conference shall be held within the boundaries of the Commonwealth. At the prehearing conference, an administrative law judge shall confer informally with the parties at issue and their counsel, if any, for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposal of the case. If agreement upon any matter is reached, the administrative law judge shall write a memorandum

setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge shall file it with the ***commission*** [~~board~~]. Once filed, the memorandum shall become a part of the record.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

(5) An application for adjustment of claim shall be held in abeyance by the administrative law judge during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle him, unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 15. KRS 342.275 is amended to read as follows:

In any claim in which settlement is not reached at the prehearing conference, the administrative law judge shall hold a hearing on the matters at issue within sixty (60) days from the date of the prehearing conference in a location at or convenient to the place where the employee resides, ***except that the*** [~~provided that such~~] conference shall be held within the boundaries of the Commonwealth. The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the ***commissioner*** [~~board~~]. The commissioner shall notify the parties at issue of the time and place of the hearing. The administrative law judge shall render the award, order, or decision within ***sixty (60) days following the final hearing unless mutually agreed to by all parties*** [~~thirty (30) days after the case is submitted~~]. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute.

PART 4

ALTERNATIVE DISPUTE RESOLUTION

SECTION 16. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In accordance with administrative regulations promulgated by the commissioner, a collective bargaining agreement between an employer and a recognized or certified exclusive bargaining representative that contains the following provisions may be recognized as valid and binding:

- ***(a) An alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter that relate to the resolution of disputes, and which may include but is not limited to mediation and arbitration, the results of which may be binding upon the parties;***
- ***(b) The use of an agreed list of providers of medical treatment, which may be the exclusive source of all medical and related treatment provided under this chapter;***
- ***(c) The use of a limited list of physicians to conduct independent medical examinations;***
- ***(d) A light duty, modified job, or return-to-work program;***
- ***(e) A vocational rehabilitation or retraining program; and***
- ***(f) A twenty-four (24) hour health care coverage plan for medical benefits.***

(2) A system of arbitration may provide that the decision of the arbiter is subject to review by an administrative law judge.

(3) Notwithstanding the provisions in subsection (1) of this section, no agreement shall be recognized as valid and binding that diminishes the rights of any of the parties under this chapter. Also, no agreement shall be valid and binding unless it is agreed to by the employer's insurance carrier.

PART 5

MEDICAL PROVISIONS: MANAGED CARE, STATEMENT FOR SERVICES, FEE SCHEDULES, ANTI-BALANCE BILLING, SELF-REFERRAL

Section 17. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. ***The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee.*** [~~The employee may select the physician to treat his~~

~~injury, and the hospital in which he shall be treated.~~] The employer, or an insurer on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of *the* [~~such~~] services within thirty (30) days of receipt of a statement for services. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter*,* if appropriate*,* as long as medical services are rendered. *Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.*

(2) *Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.*

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall [~~initially~~] pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces *as may reasonably be required at the time of the injury and thereafter during disability*.

(7)[~~(3)~~] Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat his injury or disease, or because of the hospital selected by the employee in which he is being treated, that the employee is not receiving proper medical treatment and his recovery is being substantially affected or delayed; or that the funds for his medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for his injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any

employee from any physician, hospital, or attendant thereof.

(8)~~[(4)]~~ An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury ***or disease*** for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 18. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than ***two (2)*** ~~[three (3)]~~ physicians without prior consent from the administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. ***The*** ~~[Such]~~ report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of ***the*** ~~[such]~~ report and to cross-examine the reporting physician. The ***commissioner*** ~~[board]~~ shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 19. KRS 342.035 is amended to read as follows:

(1) ~~[Within one hundred eighty (180) days following January 4, 1988, and]~~ Periodically ~~[thereafter]~~, the ***commissioner*** ~~[board]~~ shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges***,*** and reimbursements under KRS 342.020 ***and this section*** shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons ***in the same community for like services, where treatment is paid for by general health insurers***~~[of a like standard of living in the same community and where such treatment is paid for by the injured person himself]~~. In determining what fees are reasonable, the ***commissioner*** ~~[board]~~ may also consider the increased security of payment afforded by this chapter. ***On or before November 1, 1994, and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. Within ten (10) days of the effective date of this Act, the commissioner shall execute a contract with an appropriately qualified consultant pursuant to which each of the following elements within the workers' compensation system are evaluated: the methods of health care delivery; quality assurance and utilization mechanisms; type, frequency, and intensity of services; risk management programs; and the schedule of fees contained in administrative regulation. The consultant shall present recommendations based on its review to the commissioner not later than sixty (60) days following execution of the contract. The commissioner shall consider these recommendations and, not later than thirty (30) days after their receipt, promulgate a regulation which shall be effective on an emergency basis, to effect a twenty-five percent (25%) reduction in the total medical costs within the program.***

(2) ***No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.***

(3) Where ***these*** ~~[such]~~ requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused***,*** or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

(4) The commissioner shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer.

(5) (a) To ensure compliance with subsections (1) and (4) of this section, the commissioner shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, group self-insurer, and self-insured employer to certify to the commissioner the program or plan it has adopted to ensure

compliance.

(b) In addition, the commissioner shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the commissioner, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the commissioner to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the commissioner, and shall use the information for no other purpose than the audit required by this paragraph.

(c) The commissioner shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, group self-insurer, or self-insured employer pursuant to this chapter.

(d) Periodically, or upon request, the commissioner shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.

(e) The cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.

(6) The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents ($0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.

(8) (a) The commissioner shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The commissioner may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.

(b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

SECTION 20. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A:

(a) Establishing the form and content of a statement for services;

(b) Specifying the manner in which the employee may designate and change the designation of physicians;

(c) Requiring selection of gatekeeper physicians;

(d) Requiring reports from providers on the condition of the employee; and

(e) Establishing procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of medical services shall be resolved.

(2) Pending the effective date of administrative regulations promulgated by the commissioner, all administrative regulations heretofore promulgated by the Workers' Compensation Board pertaining to these matters shall remain in effect, it being determined that those administrative regulations are within the statutory grant of authority, meet legislative intent, and are not in conflict with the provisions of this chapter.

Section 21. KRS 342.735 is amended to read as follows:

The *commissioner* [~~board~~] shall *promulgate administrative* [~~establish rules and~~] regulations to expedite the payment of temporary total disability and medical expense benefits. *The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an administrative law judge on medical issues relating to the reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the*

employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.

Section 22. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment***, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment***.

(2) The ***commissioner*** [~~board~~] shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. [~~The board shall approve as qualified such facilities, institutions, and physicians as are capable of rendering competent rehabilitation service to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.~~]

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service ***likely to return the employee to suitable, gainful employment*** [~~the administrative law judge may deem necessary~~], be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The ***commissioner*** [~~board~~] shall cooperate on a reciprocal basis with the Kentucky Office of Rehabilitation of the Department of Education and the Department of Employment Services of the Kentucky Cabinet for Human Resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Office of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. ***This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on the effective date of this section.***

(7) ***Prior to an order from an administrative law judge, the provisions of this section shall not be mandatory*** [~~The board shall, by July 1, 1988, promulgate administrative regulations to effectuate the provisions of this section. The administrative regulations shall ensure early intervention; prompt and cost-efficient delivery of rehabilitation services; and vigorous monitoring of qualified rehabilitation providers, facilities, and agencies~~].

PART 6

TWENTY-FOUR HOUR COVERAGE

SECTION 23. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may establish one (1) or more pilot programs for interested employers of integrated management of an employer's workers' compensation and group health insurance claims by an insurer authorized to do business

in the Commonwealth and may promulgate any administrative regulations necessary to implement the provisions of this subsection. The integrated management of such claims shall in no event affect any benefits, rights, or coverage established pursuant to a workers' compensation insurance policy. Treatment for work-related conditions shall not be subject to either copayments or deductibles. The commissioner shall make a report comparing the results of each pilot program to the expected results under traditional workers' compensation insurance and traditional workers' compensation with a managed care program. The pilot program shall serve as a tentative model for future experiments. Unless continued or modified by law, this subsection shall expire effective September 1, 1998.

(2) No policy for twenty-four (24) hour coverage shall become effective until it is reviewed and approved by the commissioner, in consultation with the commissioner of the Department of Insurance.

(3) The purchase of a twenty-four (24) hour health policy shall not constitute an exemption from statutory provisions which require other nonmedical insurance coverage. However, an insurance carrier shall reduce its premium for insurance coverage written without the medical or health care component. Notwithstanding the provisions of Subtitle 13 of KRS Chapter 304, the premium reduction required in this subsection shall be subject to the approval of the commissioner of the Department of Insurance.

(4) If an employer obtains a twenty-four (24) hour health insurance policy, pursuant to this section, to secure payment of compensation for medical care and treatment under this chapter, the employer shall also procure an insurance policy which shall provide indemnity benefits to ensure that the total coverage afforded by both the twenty-four (24) hour insurance policy and the policy providing indemnity benefits, shall provide the total compensation required by this chapter.

(5) The participants in a pilot project for twenty-four (24) hour health coverage shall comply with periodic reporting requirements of the commission.

(6) Each agency of state government shall cooperate with the commissioner if requested to provide information for the purposes of this section.

Section 24. KRS 342.375 is amended to read as follows:

Every policy or contract of workers' compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to every one of his employees subject to this chapter, except as otherwise provided in KRS 342.345 ***or in Section 30 of this Act***. However, if specifically authorized by the commissioner, a separate insurance policy may be issued for a specified plant or work location if the liability of ***the*** [~~such~~] employer under this chapter to all his other employees subject to this chapter is otherwise secured and provided that no employee transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

PART 7

PERMANENT PARTIAL DISABILITY, RIB, TELEDYNE, AND REOPENING

Section 25. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For total disability ***due to a work-related injury or occupational disease***, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during ***that*** [~~such~~] disability. ***Nonwork-related disability shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.***

(b) For permanent, partial disability, ***where an employee returns to work at a wage equal to or greater than the employee's preinjury wage,*** sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of ***impairment***[~~disability~~] caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, ***unless the employee establishes a greater*** [~~or by his~~] percentage of disability as determined under KRS 342.0011(11), ***in which event the benefits shall not exceed two (2) times the functional impairment rate*** [~~whichever is greater~~], for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks ***subject to the provisions of subsection (1)(d) of this section. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph***. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) For permanent, partial disability, except all cases described in subsection (1)(b) of this section, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage but not more than seventy-five percent

(75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, or under KRS 342.0011(11), whichever is greater, for a maximum period from the date the disability arises, of four hundred twenty-five (425) weeks, subject, however, to the provisions of subsection (1)(d) of this section. The period of disability under this paragraph for nonwork-related disabilities shall not extend the maximum period of disability under this paragraph. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(d) For permanent, partial disability, if an employee sustains impairment or disability in excess of fifty percent (50%) as a result of a work-related injury or occupational disease and prior work-related active disability the compensable permanent partial disability period shall then be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Nonwork-related impairment or disability and claims under KRS 342.732 shall not be considered in determining whether the employee is impaired or disabled in excess of fifty percent (50%) for purposes of this subsection.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) ***Subject to the limitations contained in subsection (4) of this section,*** when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after ***the*** [~~such~~] death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both [~~such~~] a widow or widower and such a child or children, to ***the*** [~~such~~] widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of ***those*** [~~such~~] benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no [~~such~~] widow or widower but such a child or children, then to ***the*** [~~such~~] child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of ***those*** [~~such~~] benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in [~~such~~] proportions ***that*** [~~as~~] the ***commissioner provides*** [~~board may provide~~] by ***administrative*** regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if ***the*** [~~such~~] proportioned benefits remain unpaid, to be paid in a lump sum.

(4) If the injury or last exposure occurs prior to the employee's sixty-fifth birthday, any income benefits awarded under KRS 342.750, 342.316, 342.730 or 342.732 shall be reduced by ten percent (10%) beginning at age sixty-five (65) and, by ten percent (10%) each year thereafter until and including age seventy (70). Income benefits shall be not be reduced beyond the employee's seventieth birthday.

Section 26. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by two (2) X-rays and reports of the X-rays which conform to the standards for X-rays contained in subsection (2) of KRS 342.316, he shall award a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. ***These benefits may be paid directly to the employee only if the employee is not working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), in which event the one (1) time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040. While the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), and if the employee is enrolled and actively participating in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner, benefits awarded under this paragraph shall be paid directly to the institution conducting the training or education program on a semimonthly basis. The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a), nor shall the employee personally receive any benefits pursuant to this award other than for traveling expenses. When the employee, through no fault of his own, is no longer working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a), then any remaining benefits shall be paid directly to the employee on the same monthly basis as provided in KRS 342.040*** {~~The one (1) time only retraining incentive benefit awarded under this paragraph may be collected semimonthly as provided in KRS 342.040, by the employee while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employee leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge. Based upon this examination, the administrative law judge may make appropriate findings and enter an award if indicated~~}.

(b) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(c) If the administrative law judge finds that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the Guides to the Evaluation of Permanent Impairment published by the American Medical Association, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during ***the*** {~~such~~} disability***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(d) If the administrative law judge finds that an employee has occupational pneumoconiosis with a radiographic classification of category 2/1, 2/2, 2/3, 3/2, 3/3, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability***, but in no event shall a claim be filed under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a)***.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from

the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to ***the*** [~~such~~] occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) In no event shall income benefits awarded under paragraphs (a) or (b) of subsection (1) of this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

Section 27. KRS 342.125 is amended to read as follows:

(1) ***In claims where an award or order is entered pursuant to KRS 342.730(1)(a) or (1)(b) and*** upon its own motion or upon the application of any party and a showing of change of occupational disability, mistake or fraud, or newly discovered evidence, the administrative law judge may at any time reopen and review any award or order, except as provided in subsection (2) of this section, ending, diminishing, or increasing the compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke his previous order, sending immediately to the parties a copy of his subsequent order or award. ***In claims where an award or order is entered pursuant to KRS 342.730(1)(c) or (d) and upon its own motion or upon the application of any party and a showing of change of medical condition, mistake, or fraud, or newly discovered evidence, the administrative law judge may at any time reopen and review any award or order, except as provided in subsection (2) of this section, ending, diminishing, or increasing the compensation previously awarded, within the maximum and minimum provided in this chapter, or the administrative law judge may change or revoke his previous order, sending immediately to the parties a copy of his subsequent order or award. Any final award increasing or diminishing benefits shall require a showing of a change in occupational disability.*** Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding hereunder but shall not affect the previous order or award as to any sums already paid thereunder. The employer shall not suspend the payment of benefits during the pendency of any reopening procedures.

(2) (a) Upon the application of the affected employee, and a showing of progression of his previously diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to ***that*** [~~such~~] pneumoconiosis, the administrative law judge may review an award of a retraining incentive benefit because of ***the*** [~~such~~] diagnosis, and upon a finding of respiratory impairment due to ***that*** [~~such~~] pneumoconiosis shall make an award for benefits as provided in KRS 342.732. Such a reopening may also occur upon a showing of progression of respiratory impairment in a claim for which benefits were previously awarded under the provisions of KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits previously awarded and, if applicable, also by the amount of income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(3) ***In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.***

(4) Where an agreement has become an award by approval of the administrative law judge, and a reopening and review of ***that*** [~~such an~~] award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

Section 28. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

(6) If death occurs as a direct result of a work related injury, and the deceased has no statutory dependents, as determined by this section, a lump-sum payment of $10,000 shall be paid to his estate, in addition to the amount provided for in KRS 342.720; provided, however, that the lump-sum payment shall be reduced by any income benefits previously paid on

account of that injury.

(7) All benefits awarded pursuant to this section shall be subject to the limitations contained in KRS 342.730(4).

Section 29. KRS 342.143 is amended to read as follows:

For the purposes of this chapter the average weekly wage of the state shall be determined by the commissioner as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. ***The*** ~~[Such]~~ average weekly wage shall be certified to the commissioner by the Cabinet for Human Resources in a manner prescribed by the ***commissioner*** ~~[Workers' Compensation Board]~~ by ***administrative*** regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disability in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made. ***Notwithstanding the provisions of this section, KRS 342.140, KRS 342.740, or any other provisions of this chapter to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined to be no higher than the average weekly wage determined by the commissioner to be in effect in the calendar year of 1994. If the average weekly wage calculated by the commissioner is determined to be lower than the 1994 calendar year wage, the average weekly wage may be lowered as provided by this section. Beginning in calendar year 1997 and annually thereafter, the average weekly wage shall be calculated based upon the state average weekly wage in effect two (2) years prior to that calculation.***

PART 8

ATTORNEY'S FEES

Section 30. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the administrative law judge pursuant to the statutes and administrative regulations. In an original claim, no ***attorney's*** ~~[attorney]~~ fees shall be allowed or approved against any party not represented by ***an*** ~~[said]~~ attorney, nor shall any ***attorney's*** ~~[attorney]~~ fee be allowed or approved exceeding an amount equal to twenty percent (20%) of the first twenty-five thousand dollars ($25,000), fifteen percent (15%) of the next ten thousand dollars ($10,000)***,*** and five percent (5%) of the remainder of the amount recovered***, except where applicable in the case of death and then by the use of*** ~~[as actuarially determined on past and future benefits according to the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables and]~~ the Remarriage Tables of the Dutch Royal Insurance Institute. ***However, in no event shall the attorney's fee exceed fifteen thousand dollars ($15,000).*** ~~[If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used. Provided, however,]~~ The administrative law judge, in making an allowance of ***attorney's*** ~~[attorney]~~ fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The factors to be considered by the administrative law judge in making the allowance of ***an attorney's*** ~~[attorney]~~ fees shall include, but not necessarily be limited to: nature, scope, and quality of the attorney's services; level of skill and competence required of the attorney in rendering the services; results achieved; experience and skill level of the attorney; and contingent nature of the case. ~~[In the order making the allowance of attorney fees, the administrative law judge shall set forth findings sufficient to support the amount approved.]~~ The administrative law judge may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. ***Any award made to a claimant in a nonresisted claim under KRS 342.732, 342.316 or in a claim under KRS 342.732(1)(a) for an employee who continues to work in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a) shall result in an award of an attorney's fee not exceeding seven hundred fifty dollars ($750). The date of injury or last exposure shall control the applicable maximum attorney's fee, except that the date the claim is filed shall control the maximum fee as to all claims filed under KRS 342.732(1)(a) for an employee who continues to work in the mining industry engaged in the severance or processing of coal is defined in KRS 342.0011(23)(a).*** Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 shall result in an award of an ***attorney's*** ~~[attorney]~~ fee not exceeding seven hundred fifty dollars ($750).

(2) ***(a)*** No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an ***attorney's*** ~~[attorney]~~ fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The ***attorney's*** ~~[attorney]~~ fee

shall be paid in one (1) of the following ways:

~~[(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or]~~

1.(b) The claimant may pay the attorney's fee out of his personal funds ***or from the proceeds of a lump-sum settlement***, or

2.~~[(c)]~~ The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid***, commuting sufficient sums to pay the fee***.

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee~~[,]~~ is to be paid. His selection and statement that he fully understands the method to be used shall be submitted ***by his attorney***, on a notarized form signed by the claimant, ~~[by his attorney]~~ at the time the motion for approval of the attorney's fee is submitted. The ***commissioner*** ~~[board]~~ shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of ***an attorney's*** ~~[attorney]~~ fees and an explanation in nontechnical language of each method.

(4) The General Assembly declares that by the enactment of subsection (2)(b) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of ***those*** ~~[such]~~ claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to ***this*** ~~[such]~~ legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5) The administrative law judge shall approve any contract between attorney and client if the ***fees are reviewed and approved by the administrative law judge pursuant to subsection (1) of this section and if the*** limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316, the ***attorney's*** ~~[attorney]~~ fee shall not exceed an amount equal to seven hundred fifty dollars ($750).

(b) In all other claims, the fee of the attorney shall not exceed the amounts provided in subsection (1) of this section.

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an ***attorney's*** ~~[attorney]~~ fee may be awarded by the administrative law judge. In awarding the ***attorney's*** ~~[attorney]~~ fee, the administrative law judge shall consider the factors set forth in subsection (1) of this section.

(b) Thereafter, the administrative law judge shall fix the ***attorney's*** ~~[attorney]~~ fee. No ***attorney's*** ~~[attorney]~~ fee shall be allowed or approved against any party not represented by ***that*** ~~[said]~~ attorney, nor shall any ***attorney's*** ~~[attorney]~~ fee be allowed or approved exceeding the amounts provided in subsection (1) of this section applicable to any additional amount recovered. If there is no additional amount recovered in a reopened claim, there shall be no ***attorney's*** ~~[attorney]~~ fee.

PART 9

SPECIAL FUND - SCOPE AND COVERAGE

Section 31. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may name the special fund as a party in the original application for benefits, or either party shall ***as soon as practicable,*** by motion ~~[not later than forty-five (45) days prior to the first scheduled prehearing conference]~~, unless there is a showing of good cause, request the administrative law judge to and the administrative law judge shall, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employee is found to have a dormant nondisabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) All motions to join the special fund shall include proper allegations demonstrating the basis for joinder and certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant.

(4) Failure to move for joinder of the special fund within the time limit prescribed by this section, without a showing of good cause, shall bar any recovery against the special fund.

(5) When the special fund has been made a party, the administrative law judge may direct the procedures provided in KRS 342.121.

(6) If it is found that the employee is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employee is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the administrative law judge which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(7) The remaining compensation for which such resulting condition would entitle the employee, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, but excluding all compensation which the provisions of this chapter would have afforded on account of prior disabling disease or injury had it been compensated thereunder, shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employee under such regulations as the secretary of finance and administration may provide for such purpose.

(8) In making the computation for the apportionment of benefits under this section, the administrative law judge shall determine the amount of the employee's weekly income benefits and apportion the award ***commencing with*** [~~between~~] the employer and special fund as follows:

(a) For benefits awarded under ***this chapter*** [~~KRS 342.730(1)(b)~~], the portions shall be based on the number of weeks stated therein;

(b) ***In instances where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, unless otherwise agreed by all parties*** [~~For all other benefits awarded under this chapter, except retraining incentive benefits awarded pursuant to KRS 342.732, the portions shall be based on the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. Decennial Life Tables. If the most recent edition of the U.S. Decennial Life Tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used~~].

Section 32. KRS 342.1202 is amended to read as follows:

(1) An award for income benefits for permanent total or permanent partial disability under this chapter based, in whole or in part, on a pre-existing disease or pre-existing condition of the back, or of the heart shall be apportioned, by the administrative law judge, fifty percent (50%) to the employer and fifty percent (50%) to the special fund. Apportionment required by this section shall not be a cause of appeal.

(2) The special fund's liability for income benefits for all other injury claims shall not exceed fifty percent (50%) of the income benefits awarded for permanent disability. In those injury claims where the administrative law judge determines that the apportionment to the special fund under KRS 342.120 exceeds fifty percent (50%) of the award of permanent disability, that portion of the award exceeding fifty percent (50%) shall be paid by the employer.

PART 10

SPECIAL FUND ASSESSMENTS, KWCFC, AND DEDUCTIBLE POLICIES

Section 33. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Division of Special Fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and, financing the expenditures for all programs in the Labor Cabinet, except the Division of Employment Standards and Mediation and the Office of Labor-Management Relations, as reflected in the enacted budget of the Commonwealth enacted by the General Assembly, a special fund assessment at the rate of sixteen and nine-tenths percent (16.9%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1990, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after January 1, 1990, a special fund assessment at the rate of sixteen and nine-tenths percent (16.9%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty-seven percent (47%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1990, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1990, an additional assessment at the rate of forty-seven percent (47%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) ~~[On November 15, 1991, and]~~ Each November 15, ~~[thereafter,]~~ the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for *the* ~~[such]~~ past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively, during the next annual period beginning on January 1 of each year. On or before December 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on January 1, of each year, unless modified by the General Assembly.

(3) *(a) Notwithstanding the assessment rates in subsection (1) of this section or the special fund assessment amounts specified in subsection (2) of this section, for calendar year 1995, the funding commission shall impose a special fund assessment rate necessary to produce seventy-eight million, six hundred sixty-two thousand sixty-two dollars ($78,662,062) and an additional assessment rate necessary to produce forty million dollars ($40,000,000).*

(b) For calendar year 1996 the funding commission shall impose a special fund assessment rate necessary to produce eighty-eight million, six thousand two hundred forty-one dollars ($88,006,241) and an additional assessment rate necessary to produce forty million dollars ($40,000,000).

(c) 1. The assessment rate calculated to produce seventy-eight million, six hundred sixty-two thousand sixty-two dollars ($78,662,062) under paragraph (a) of this subsection shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1995, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

2. In addition to the assessment calculated under subparagraph 1. of this paragraph, the funding commission shall calculate an assessment rate calculated to produce forty million dollars ($40,000,000), pursuant to paragraph (a) of this subsection, which shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1995, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal, and upon the premium, as defined in KRS 342.0011 of every employer engaged in the severance or processing of coal who is carrying his own risk.

(d) 1. The assessment rate calculated to produce eighty-eight million, six thousand two hundred forty-one dollars ($88,006,241) under paragraph (b) of this subsection shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1996, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every group of self-insurers operating under the provisions of KRS 342.350(4), and against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

2. In addition to the assessment calculated under subparagraph 1. of this paragraph, the funding commission shall calculate an assessment rate calculated to produce forty million dollars ($40,000,000), pursuant to paragraph (b) of this subsection which shall be imposed upon the amount of workers' compensation premiums received on and after January 1, 1996 by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal, and upon the premiums, as defined in KRS 342.0011 by every employer engaged in the severance or processing of coal who is carrying his own risk.

(e) On or before December 1 of 1994 and 1995, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the special fund assessment rates established in this subsection which shall become effective on January 1, 1995, and January 1, 1996, respectively, unless modified by the General Assembly. The payment schedules and other matters relating to the payment of the special fund assessments required pursuant to this section shall apply to the assessment rates and amounts required under this subsection.

(f) For calendar year 1997 and for each calendar year thereafter, the assessment rates and amounts contained in the provisions of subsections (1) and (2) of this section shall apply.

All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.

(5)[~~(4)~~] ***These*** [~~Such~~] assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(6)[~~(5)~~] The assessments [~~herein~~] imposed ***by this section*** may be collected by the insurance carrier from his insured***.***[~~, provided~~] However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, ***the*** [~~such~~] assessment shall be collected at the same time and in the same proportion as the premium is collected. ***The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible.*** Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages ***imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible*** [~~in effect at the time the statement of the premium is sent to the insured~~]. ***The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.***

(7) A group self-insurance association may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years.

(8)[~~(6)~~] The funding commission, as part of the collection and auditing of the special fund assessments required ***by this section*** [~~herein~~], shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each [~~such~~] employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employees***.***[~~, provided~~] However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The Division of Unemployment Insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(9)[~~(7)~~] Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the Revenue Cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(10)[~~(8)~~] The special fund shall be required to maintain a central claim registry of all claims to which it is named a party, giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. ***The*** [~~Such~~] registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(11)[~~(9)~~] The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as [~~herein~~] set out ***by this section*** and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

(12)[~~(10)~~] Notwithstanding any other provision of this section or this chapter, or the Kentucky Revised Statutes, generally, the assessment rates for the special fund, as determined ***by this section*** [~~herein~~], which were in force and effect on January 1, 1990, shall continue in force and effect until December 1, 1991, and the total amount of funds collected pursuant to ***the*** [~~such~~] assessment rates shall not be limited to the provisions of this section.

(13) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

Section 34. KRS 342.1221 is amended to read as follows:

Assessments levied pursuant to KRS 342.122 and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1.5%) per month ***or portion thereof without proration*** from the date ***on which the*** [~~such~~] assessment was due and payable. ***The funding commission shall have the authority to waive part or all of the penalty, but not the interest, where it is shown to the satisfaction of the commission that failure to timely pay assessments is due to reasonable cause.***

Section 35. KRS 342.1222 is amended to read as follows:

(1) Every insurance carrier shall be entitled to a refund or credited with assessments paid on all canceled or returned premiums, including dividends paid or credited to policyholders***, if the assessments are returned by the insurance carrier to the policyholder in addition to the canceled or returned premium***.

(2) The assessments paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit***, with respect to all claims filed on or after July 13, 1990,*** is made by the insurance carrier within ***four (4) years*** [~~one (1) year~~] of the ***date the insurance carrier returns the assessments to the employer*** [~~end of the policy year~~].

(3) A claim for refund or credit shall be made on a form prescribed by the funding commission and shall contain ***any*** [~~such~~] information ***that*** [~~as~~] the funding commission may require.

(4) No insurance carrier shall be entitled to a refund or credit of the assessments paid pursuant to the provisions of this chapter where the assessments have been collected from an employer as provided by KRS 342.122, unless the amount of assessments collected from the employer are refunded to him by the insurance carrier who paid the assessments to the funding commission.

PART 11

SELF-INSURANCE

Section 36. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state or shall furnish to the ***commissioner*** [~~board~~]satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case***,*** the ***commissioner*** [~~board~~] shall require the deposit of an acceptable security, indemnity, or bond to secure, to ***the*** [~~such an~~] extent [~~as~~] the ***commissioner*** [~~board~~] directs, the payment of compensation liabilities as they are incurred.

(2) Every employer subject to this chapter shall file, or have filed on its behalf, with the ***department*** [~~Workers' Compensation Board~~], as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. ***Any insurance carrier or group self-insurance association providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the commissioner, evidence of the employer's compliance with this chapter. The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage.*** Every employer who has complied with the foregoing provision and has subsequently canceled its insurance or its membership in an approved group self-insurance association, as the case may be, shall immediately notify, or have notice given on its behalf to the ***department*** [~~Workers' Compensation Board~~] of ***the*** [~~such~~] cancellation, the date thereof, and the reasons therefor; and every insurance carrier or group self-insurance association shall in like manner notify the ***commissioner*** [~~Workers' Compensation Board~~] upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or group self-insurance association need not set forth its reasons therefor unless requested by the ***commissioner*** [~~Workers' Compensation Board~~]. The above filings are to be made on the forms prescribed by the ***commissioner*** [~~board~~]. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of ***the*** [~~such~~] notification by the ***commissioner*** [~~Workers' Compensation Board~~] unless the employer has obtained other insurance and the ***commissioner*** [~~Workers' Compensation Board~~] is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the ***commissioner*** [~~board~~] shall promptly notify interested government agencies of ***this*** [~~said~~] failure and, with particular reference to employers engaged in coal mining, the ***commissioner*** [~~board~~] shall promptly report any [~~such~~] failures to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 37. KRS 342.345 is amended to read as follows:

(1) Whenever an employer has complied with the provisions of KRS 342.340 relating to self-insurance, the ***commissioner*** [~~board~~] shall issue to ***the*** [~~such~~] employer a certificate which shall remain in force for a period fixed by the ***commissioner*** [~~board~~]. But the ***commissioner*** [~~board~~] may, upon at least ***ten (10)*** [~~sixty (60)~~] days' notice and a hearing to the employer, revoke ***or suspend*** the certificate upon satisfactory evidence ***that*** [~~for such~~] revocation ***or suspension is appropriate*** [~~having been presented~~]. ***If the commissioner revokes a certificate,*** the ***commissioner*** [~~board~~] may thereafter, upon petition of the employer and a hearing, grant a new certificate, but the employer shall not, as a matter of right, be entitled to a hearing for this purpose sooner than six (6) months ***following an order of the commissioner revoking the employer's certificate*** [~~after a previous revocation of his certificate~~].

(2) A self-insurer whose certificate to self-insure has been revoked is not relieved of its obligations for compensation to its employees for work-related injuries or occupational diseases that occur during the period of self-insurance. The required security shall be maintained with the commissioner or under the commissioner's control until each claim

for workers' compensation benefits has been paid, been settled, or lapsed under this chapter.

SECTION 38. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 342.340, 342.350, or any administrative regulations promulgated pursuant to those provisions, the commissioner shall annually review the adequacy of the financial or other security requirements contained in administrative regulations, promulgated pursuant to the self-insurance provisions in this chapter. The commissioner shall report the results of the review to the Labor and Industry Committee of the General Assembly and any recommendations for proposed changes to insure the financial soundness of the individual self-insurers and the self-insurance groups authorized pursuant to this chapter. In addition, the commissioner shall report not less often than annually a summary report on the financial soundness of the individual self-insurers and self-insurance groups.

(2) The Labor and Industry Committee of the General Assembly shall annually review the administrative regulations promulgated pursuant to the self-insurance provisions under this chapter.

(3) On July 1, 1994, the Coverage and Compliance Branch of the Department of Workers' Claims in the Labor Cabinet shall be expanded by five (5) employees. These additional employees shall be employed for the purpose of conducting financial audits, examinations, and reviews and other activities necessary to ensure and monitor the financial soundness of the self-insured employers and group self-insurers authorized pursuant to KRS 342.340.

PART 12

COMPETITIVE STATE FUND AND RESIDUAL MARKET MECHANISM

SECTION 39. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that:

(a) An adequate and available workers' compensation insurance market does not exist for employers in the Commonwealth;

(b) Approximately fifty percent (50%) of the private workers' compensation insurance market resides in the residual market mechanism for workers' compensation;

(c) The voluntary insurance market has declined to the point that employers in the Commonwealth, who lack the financial capability to cover their own risk, have few insurance options except the residual market mechanism through which to maintain their statutorily required workers' compensation coverage;

(d) A lack of an adequate market for workers' compensation insurance threatens the economic welfare of the Commonwealth and its ability to create and maintain jobs for the citizens of Kentucky;

(e) Employers in the Commonwealth and other states are required by law to provide workers' compensation coverage to their employees and, therefore, the General Assembly has a responsibility to ensure employers an available and adequate insurance mechanism through which employers may discharge their statutory duty regarding workers' compensation; and

(f) State funds have historically and traditionally been a viable participant in the workers' compensation insurance market, that workers' compensation state funds exist in twenty-five (25) states, and that at least seven (7) states have created competitive state funds since 1983.

(2) Therefore, it is the intent of the General Assembly in creating the Employers' Mutual Insurance Authority to establish a self-supporting competitive state fund for the purpose of providing both a market of last resort for employers in the Commonwealth and another competitive source of insurance in the voluntary market through which employers may secure and maintain their workers' compensation coverage required under this chapter.

SECTION 40. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The Employers' Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure employers in the Commonwealth for workers' compensation, employers' liability insurance and coverage required by the Federal Coal Mine Health & Safety Act, the Jones Act and the Longshore and Harbor Workers Act incidental to and written in conjunction with workers' compensation. The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of Subtitle 24 and other provisions of KRS Chapter 304 applicable to domestic mutual insurance companies unless otherwise provided or exempted in Sections 39 to 61 this Act.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) On or before September 1, 1995, the authority shall begin to provide coverage and issue policies, as provided in subsection (1) of this section, as an insurer in the voluntary market and as a residual market mechanism.

SECTION 41. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

As used in Sections 39 to 61 of this Act, unless the context otherwise requires:

(1) "Authority" means the Employers' Mutual Insurance authority.

(2) "Board" means the board of directors of the authority.

(3) "Manager" means the manager of the authority.

(4) "Policyholder" means an employer in the Commonwealth or an employer with an employee or employees in the Commonwealth who has secured and maintains workers' compensation coverage under this Authority.

SECTION 42. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of seven (7) voting members and four (4) ex-officio nonvoting members who shall serve in an advisory capacity.

(3) On or before sixty (60) days after the effective date of Sections 39 to 61 of this Act, the board shall be appointed by the Governor, subject to confirmation by the Senate. The members of the board shall have the following qualifications:

(a) One (1) member shall have proven or demonstrated knowledge and experience in insurance underwriting principles, preferably in the area of workers' compensation;

(b) One (1) member shall have proven or demonstrated knowledge and experience in workplace safety in the majority of all categories or classifications of employment and industry in the Commonwealth;

(c) One (1) member shall be a nonmanagement employee of a prospective employer policyholder;

(d) Two (2) members shall represent employers with fewer than fifty (50) employees; and

(e) Two (2) members shall represent employers with more than fifty (50) employees.

(4) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(5) No person shall serve on the board who:

(a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;

(b) Is not bondable;

(c) Is an employee, attorney, or contractor of a competing insurer providing workers' compensation insurance in the Commonwealth; or

(d) Is not a resident of this Commonwealth.

(6) In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from the major sectors of the economy and workforce in the Commonwealth.

SECTION 43. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board as follows: three (3) members shall be appointed to terms that expire December 31, 1995, and four (4) members shall be appointed to terms that expire December 31, 1997. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Four (4) voting members shall constitute a quorum. The board shall meet at least quarterly.

(4) Each voting member shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500). In addition, the voting members of the board shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5) The ex-officio nonvoting members of the board shall be: the secretary of the Finance and Administration Cabinet, the secretary of the Economic Development Cabinet, the commissioner of the Department of Personnel, and the commissioner of the Department of Insurance.

(6) A voting board member may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws formulated by the board and adopted by the policyholders.

SECTION 44. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to Subtitle 24 of KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue or be sued;

(2) Hire a manager to administer the authority;

(3) Adopt a corporate seal;

(4) Develop bylaws for the operation of the authority;

(5) Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in Section 50 of this Act;

(6) Examine and adopt an annual operating budget for the authority;

(7) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(8) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(9) Develop broad policy for the long-term operation of the authority consistent with its mission and fiduciary responsibility;

(10) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A;

(11) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness.

(12) Subject to Subtitle 13 of KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(13) Pursuant to Section 50 of this Act, assess policyholders to cover its liabilities as provided in KRS 304.24-230; and

(14) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of Sections 39 to 61 of this Act.

SECTION 45. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Following a nationwide search, the board shall hire a manager, subject to Senate confirmation in accordance with KRS 11.160 who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board, and may be removed by the board in the same manner prescribed in Section 43 of this Act for the removal of a member of the board.

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the general management level in insurance operations or in the management of a state fund for workers' compensation.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The specific duties of the manager shall include, but not be limited to:

  (a) Administering all operations of the authority in accordance with the direction of the board;

  (b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

  (c) Directing and controlling all expenditures of the approved budget;

  (d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially-sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

  (e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of Subtitle 7 of KRS Chapter 304;

  (f) Formulating and administering a system of personnel administration and employee compensation that uses merit principles of personnel management, includes employee benefits and grievance procedures, and includes in-service training programs;

  (g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

  (h) Recommending to the board bylaws and uniform procedures for the management of the authority;

  (i) Within the limitations of the budget, employing necessary staff personnel ;

  (j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to

protect directors, officers, employees, and assets of the authority; and

(k) Contracting by competitive bidding pursuant to KRS Chapter 45A for claims administration, safety services, legal defense, actuaries, medical providers, financial services and other services which the manager elects to obtain outside employed staff.

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Cause to be inspected and audited the payrolls of policyholders or employers applying to the authority for insurance;

(c) Establish procedures for adjusting claims in accordance with this chapter;

(d) Contract with physicians, surgeons, hospitals, and other health care providers for medical and surgical treatment provided by this chapter;

(e) Contract with qualified third-party entities to assist in the development and formulation of rates and rating plans; and

(f) Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64 relating to salaries, salary limits, or benefits shall not apply to the board, the manager, or the staff of the authority.

SECTION 46. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority may provide coverage for insurance, authorized in Section 40 of this Act, to any employer in the Commonwealth, and who tenders the required premium for coverage and comply with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(2) The authority shall provide coverage to any employer who is unable to secure coverage in the voluntary market unless the employer owes undisputed premiums to a previous workers' compensation carrier or to a workers' compensation residual market mechanism.

SECTION 47. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority, through its board and manager, shall establish separate rating plans, rates, and underwriting standards for different classes of risks.

(2) The rating plans, rates, and underwriting standards developed for the categories of risk shall be based on generally accepted actuarial practices and procedures as set forth in the Statement of Principles Regarding Property and Casualty Ratemaking of the Casualty Actuarial Society, in accordance with the actuarial standards of practice and compliance guidelines of the Actuarial Standards Board. The rates shall be actually sound for both the voluntary market and the residual market and set at levels which are expected, in the aggregate, to be sufficient to pay all workers' compensation claims incurred by the participating employer risks and other permitted expenses of the authority.

(3) Multitiered premium or rating plans may be developed to provide coverage to insureds in the residual market mechanism established by the authority, and who would not otherwise meet the underwriting standards required by the authority.

(4) The manager shall develop statistical and other information as necessary to distinguish its writings in the voluntary market, and its writings as a residual market mechanism.

(5) The rates developed by the authority for its policyholders shall be based only on Kentucky loss experience data, except that other loss experience data may be utilized as a supplement to Kentucky data if supplemental or additional data are necessary to establish statistical credibility of an employment classification.

(6) Notwithstanding any provision of KRS Chapter 304 to the contrary, the surplus requirements for mutual insurance companies in the Commonwealth shall not apply to the authority until the authority has been in operation for thirty-six (36) months.

SECTION 48. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

On an annual basis, the board may declare a dividend in accordance with Subtitle 24 of KRS Chapter 304, and distribute the same in the form of premium discounts, dividends, or a combination of dividends and discounts, at its discretion, if:

(1) The funding obtained pursuant to Section 53 of this Act has been repaid in full;

(2) An independent actuarial report of the prior year's operations has been completed and reviewed by the board; and

(3) The authority has met all expenses for administration and claims for the prior year; and

(4) Adequate reserves exist to pay all claims.

SECTION 49. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

On a quarterly basis, the manager shall prepare a report of assets and liabilities, which shall also include a statement of condition regarding the solvency of the authority when awarded claims to date, and estimated initial claims not reported, are taken into account. This report shall be a public record and shall be provided to the board, the Governor, and the Legislative Research Commission.

SECTION 50. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In determining the solvency of the authority in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities by the amount of future anticipated investment income.

(2) The board shall submit an annual independently audited report in accordance with procedures governing annual reports adopted by the National Association of Insurance Commissioners within ninety (90) days of the close of the business year. The report shall be a public record and shall be delivered to the Governor, commissioner of insurance, and the co-chairs of the Legislative Research Commission. It shall indicate the business done by the authority during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of that year. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

(a) A summary of the prior quarterly reports required in Section 49 of this Act;

(b) An actuarial projection of solvency status for at least ten (10) years in the future; and

(c) Any recommendations pertaining to the same.

(3) If the assets of the authority at any time are less than its liabilities, the board shall levy an assessment on its policyholders and enforce payment of the assessment in the manner provided in Subtitle 24 of KRS Chapter 304.

SECTION 51. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The board shall formulate and adopt an investment policy that safeguards the value of all assets and maximizes investment potential commensurate with risk and liquidity restrictions, and supervise the investment activities of the authority subject to the limitations on domestic insurance companies under KRS Chapter 304. Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the authority may utilize the investment expertise and advice of the Office of Financial Management and Economic Analysis in the Cabinet for Finance and Administration. The authority shall also retain an independent investment counsel or managers who shall be subject to standards applicable to fiduciaries responsible for safeguarding assets of a corporation.

SECTION 52. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The manager shall compile and maintain statistical and actuarial data related to the determination of proper premium rate levels, the incidence of work-related injuries, costs related to those injuries, including medical and indemnity, and other data necessary for the development of fair and equitable rates and rating plans.

SECTION 53. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Initial funding for the authority shall be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from an existing state agency or agencies to the authority. The maximum amount borrowed from all state agencies shall not exceed seven million dollars ($7,000,000), to be repaid over a period not to exceed ten (10) years from the original loan date. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The additional funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average for the long-term investment folder of the lending agency on the anniversary date of the original loan. The interest rate shall be adjusted annually on the anniversary date of the original loan. To minimize cash requirements and interest obligations, the loan shall be executed as a line of credit against the lending agency, so that only those funds actually required for initial start-up operations, including the establishment of a surplus and reinsurance expenses, are drawn down on an "as needed" basis.

(3) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(4) Funds collected by the authority shall not:

(a) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2) and (3) of this section; or

(c) Be expended for any other purposes than as authorized by Sections 39 to 61 of this Act.

SECTION 54. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) For marketing and sales purposes, the authority shall utilize only agents duly and legally licensed and in good standing in accordance with the provisions of KRS Chapter 304 to sell coverage provided by the authority.

(3) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

SECTION 55. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The manager shall formulate, implement, and monitor a workplace safety program for all policyholders.

(2) The manager shall develop a written workplace accident and injury reduction plan that promotes safe working conditions and which is based upon clearly stated goals and objectives. The manager or employees of the authority shall have reasonable access to the premises of any policyholder or applicant during regular working hours.

(3) The manager or board shall refuse to insure, or shall terminate the insurance of any policyholder who refuses to permit on-site examinations or who disregards or fails to comply with workplace safety goals and objectives required by the authority as conditions for obtaining and maintaining coverage.

SECTION 56. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

No member of the board, the manager, or any employee of the authority shall be held personally liable for any act performed or for any contract or other obligation entered into or undertaken in an official capacity, in connection with the administration, management, or conduct of the authority, its funds and other assets, its business, or other related affairs.

SECTION 57. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The board, manager and employees shall comply with the code of ethics applicable to the Executive Branch pursuant to KRS Chapter 11A.

(2) In addition to compliance with the code of ethics required in subsection (1) of this section, no member of the board shall have any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the authority. A personal interest shall include, but not be limited to, an interest in a major procurement.

SECTION 58. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of KRS Chapter 304 to the contrary, the authority shall be exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, pool, association, guarantee or insolvency fund authorized or required by KRS Chapter 304.

(2) Except as provided in subsection (1) of this section, the authority shall be subject to the same assessments applicable to workers' compensation premiums as domestic mutual insurance companies licensed to do business in the Commonwealth and governed by the provisions of Subtitle 24 of KRS Chapter 304.

(3) Notwithstanding the provisions of Subtitle 24 of KRS Chapter 304 or any other provisions of the Kentucky Revised Statutes to the contrary, the minimum number of directors and procedures required for incorporating a mutual insurance company, requirements relating to the name of a mutual insurance company, and any licensing requirements applicable to mutual insurance companies shall not apply to the authority.

(4) The authority shall be considered an insurer for purposes of KRS 342.122 and other provisions of this chapter.

(5) Notwithstanding any provision of KRS Chapter 304 to the contrary the authority shall not be subject to the provisions of Subtitle 33 or other provisions of KRS Chapter 304 that relate to the liquidation, rehabilitation, dissolution, or sale of any insurance company.

SECTION 59. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The authority shall comply with KRS Chapter 61 in regard to open meetings and the conduct of ordinary business, except that proceedings which would provide an unfair competitive advantage to private sector competitors providing workers' compensation coverage in the Commonwealth may be closed to the public.

SECTION 60. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The Workers' Compensation Insurance Plan (KWCIP), a workers' compensation residual market mechanism, in existence by virtue of this subtitle, shall not write new policies or renew policies after September 1, 1995. The board of directors of the Employers' Mutual Insurance Authority, the commissioner of the Department of Workers' Claims, and the commissioner of the Department of Insurance shall develop a plan, which shall be reviewed by the Labor and Industry Committee and the Banking and Insurance Committee of the General Assembly, for the orderly and equitable phase-out of the KWCIP. All claims on workers' compensation assigned risk policies in effect or issued prior to September 1, 1995, shall be paid by the KWCIP. The plan developed shall include procedures for application and transfer of the insureds in the KWCIP to the

Authority, who shall be subject to the qualifications and conditions of coverage required in Sections 39 to 61 of this Act. The Authority shall not be liable for any liabilities or deficits incurred on assigned risk polices in effect or issued prior to September 1, 1995.

SECTION 61. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General and the Auditor of Public Accounts shall continuously monitor the operations of the authority.

(2) Either the Attorney General or the Auditor of Public Accounts, or both, may make any investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary.

(3) The Attorney General and the Auditor of Public Accounts shall have:

(a) Full access to all records of the authority;

(b) Full access to all financial transactions and investigations of the authority;

(c) The right of subpoena; and

(d) Full access to claims, records, and supporting data.

(4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both shall:

(a) Recommend internal corrective action;

(b) Institute a civil action or action for injunctive relief to compel corrective action;

(c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or

(d) Any combination of the above listed actions or any other form of action reasonably calculated to assure efficient and honest operations of the authority and those involved with it.

PART 13

FRAUD, MISREPRESENTATION, AND PENALTIES

Section 62. KRS 342.165 is amended to read as follows:

(1) If an accident is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful ***administrative*** regulation made thereunder, communicated to ***the*** [~~such~~] employer and relative to installation or maintenance of safety appliances or methods, the compensation for which the employer would otherwise have been liable under this chapter shall be increased fifteen percent (15%) in the amount of each payment. If an accident is caused in any degree by the intentional failure of the employee to use any safety appliance furnished by the employer or to obey any lawful and reasonable [~~rule,~~] order or ***administrative*** regulation of the ***commissioner*** [~~board~~] or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this chapter, shall be decreased fifteen percent (15%) in the amount of each payment.

(2) No compensation shall be payable for work-related injuries if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable falsely represents, in writing, his physical condition or medical history, if all of the following factors are present:

(a) The employee has knowingly and willfully made a false representation as to his physical condition or medical history;

(b) The employer has relied upon the false representation, and this reliance was a substantial factor in the hiring; and

(c) There is a causal connection between the false representation and the injury for which compensation has been claimed.

Section 63. KRS 342.335 is amended to read as follows:

(1) No person shall knowingly file, or permit to be filed any false or fraudulent claim on his behalf to compensation or other benefits under this chapter, or by fraud, deceit***,*** or misrepresentation procure or cause to be made or receive any payments of compensation or other benefits under this chapter to which the recipient is not lawfully entitled, or conspire with, aid or abet another so to do. No person shall by deceit or misrepresentation or with intent to defraud cause or procure or conspire with, aid or abet another in so causing or procuring any person entitled to compensation or other benefits under this chapter to omit to claim title thereto or to accept the payment of a less sum than that to which he may be lawfully entitled to thereunder.

(2) Any person, as that term is defined in KRS 342.0011, who knowingly, as defined in KRS 501.020, makes any false representation, including misrepresentations of hazards, classifications, payrolls, or other facts by an employer or its agent that are designed to cause a reduction in the employer's premium, for the purpose of or in the course of receiving or providing any service or benefit available under this chapter, shall be subject to the civil or criminal penalties, or both, imposed pursuant to KRS 342.990 for a violation of this subsection. In addition, if a person who

violates the provisions of this subsection is also dependent upon a professional license to provide any service or benefit under this chapter, the commissioner shall refer the matter to the appropriate licensing body and recommend revocation of that person's license to work at his profession in the Commonwealth of Kentucky.

(3) All workers' compensation fraud investigations, except for claimant fraud investigations conducted by the Division of Special Fund, shall be conducted by the Department of Insurance or the Attorney General.

Section 64. KRS 342.990 is amended to read as follows:

(1) The commissioner[~~, on behalf of the Workers' Compensation Board,~~] shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) through (8) of this section, or criminal penalties pursuant to subsections (9) and (10) of this section, or both.

(3) The commissioner[~~, on behalf of the board,~~] shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge. The administrative law judge shall issue a ruling thereon within fifteen (15) days of the hearing.

(6) A cited party may appeal the ruling of the administrative law judge within fifteen (15) days following the issuance of the ruling. The appeal shall be made in writing to the [~~Workers' Compensation Board, and the board, through the~~] commissioner ***who***[~~,~~] shall***,*** as soon as practicable, schedule the matter for hearing. The ***commissioner*** [~~board~~] shall issue a ruling on the matter within thirty (30) days of the hearing.

(7) An appeal of the ruling of the ***commissioner*** [~~board~~] on civil penalties imposed in this chapter shall be to the Court of Appeals.

(8) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any employer subject to this chapter[~~,~~] who fails to make the report required by KRS 342.038[~~,~~] within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(b) Any employer, insurer on behalf of an employer, or claims administrator acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(c) Any person who violates ***subsection (9) of Section 17 of this Act, subsection (2) of Section 19 of this Act,*** KRS 342.040, [~~342.335,~~] 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(d)[~~(c)~~]Any person who violates any of the provisions of KRS ***342.165(2), 342.335,*** 342.460, 342.465***,*** or 342.470 shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense.

(9) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner[~~, on behalf of the board,~~] shall certify ***the*** [~~such~~] inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(10) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates ***subsection (9) of Section 17 of this Act,*** KRS 342.040, ***subsection (2) of Section 19 of this Act*** [~~342.335~~], 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS ***342.165(2), 342.335,*** 342.460, 342.465***,*** or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(11) Fines paid pursuant to subsections (8) and (10) of this section shall be paid into the special fund.

PART 14

MISCELLANEOUS PROVISIONS

Section 65. KRS 304.14-110 is amended to read as follows:

All statements and descriptions in any application for an insurance policy or annuity contract, by or on behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions and incorrect statements shall not prevent a recovery under the policy or contract unless either:

(1) Fraudulent; or

(2) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

(3) The insurer in good faith would either not have issued the policy or contract, or would not have issued it at the same premium rate, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise. ***This subsection shall not apply to applications taken for workers' compensation insurance coverage.***

SECTION 66. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every employer, or its designated agent, which is assigned an experience modification factor for workers' compensation in order to determine its workers compensation premium shall be furnished upon request without charge a complete copy of the data and calculations of the experience modification by the insurance company or any entity to which the insurance company may delegate the duty of calculating and promulgating the experience modification or, if applicable, by any self-insurance group of which the employer is a member.

(2) Experience modification shall be based upon all payrolls and claims experience for the applicable period regardless of whether the employer was insured by an insurance company, was a member of a self-insurance group, or was a member of the Kentucky Workers' Compensation Assigned Risk Plan for part or all of the period.

Section 67. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter***,*** an owner or owners of a business, including qualified partners of a partnership owning a business, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if ***the*** [~~such~~] owner, owners, or qualified partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of ***the*** [~~such~~] owners or partners to provide coverage for their employees and nonqualified partners, if any, required under this chapter.

(2) When an owner, owners***,*** or qualified partners have elected to be included as employees, ***this inclusion*** [~~such~~] shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" means a partner who has entered into a meaningful partnership agreement which shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership and that the partner has made some contribution to the partnership which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership.

(4) For the purposes of this section, "nonqualified partner" means a person who has entered into a partnership agreement which shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership; that the person will not participate in the decision-making of the partnership and will not participate in the profits and losses of the business engaged in by the partnership.

(5) Every partnership filing a partnership agreement for the purpose of exemption pursuant to the provisions of KRS 342.340[~~,~~] shall, on or before April 15 of each year, file with the ***commissioner*** [~~board~~] the partnership identification number assigned to the partnership by the Internal Revenue Service[~~, and shall also file a copy of the tax return of the partnership~~]. ***On or before April 15 of each year, each partnership having an agreement on file with the commissioner shall file a copy of the tax return of the partnership with the commissioner.*** Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement filed with the ***commissioner*** [~~board~~] is composed of "nonqualified partners" as defined in this section, and the ***commissioner*** [~~board~~] shall promptly notify interested government agencies of the failure of the filed partnership agreement to ***indicate compliance with*** [~~provide exemption of the partnership from the provisions of~~] KRS 342.340. With particular reference to employers engaged in coal mining, the ***commissioner*** [~~board~~] shall promptly report the failure to comply with the provisions of this subsection to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 68. KRS 342.038 is amended to read as follows:

(1) Every employer subject to this chapter shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within one (1) week after the occurrence and knowledge, as provided in KRS 342.185 to 342.200, of an injury to an employee causing his absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the ***department*** [~~board~~] on blanks procured from the ***department*** [~~board~~] for the purpose.

(2) The report shall contain the name, nature, and location of the business of the employer and name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, the nature and cause of the injury, and any other information required by the ***commissioner*** [~~board~~].

(3) ***Every employer subject to this chapter shall report to his workers' compensation insurance carrier or the party responsible for the payment of workers' compensation benefits any work-related injury or disease or alleged work-related injury or disease within three (3) working days of receiving notification of the incident or alleged incident.***

(4) Every employer or insurer subject to this chapter shall file additional reports covering specifically voluntary payments and settlements, and ***any*** ~~[such]~~ other reports ~~[as]~~ are required by the ***commissioner*** ~~[Workers' Compensation Board]~~ by ***administrative*** regulation for the determination of the promptness of voluntary payment and validity and fairness of agreements. In addition, the ***commissioner*** ~~[board]~~ may require additional information as may be necessary to comply with a federal statute or regulation or any state statute.

(5)~~[(4)]~~ Upon the termination of the disability of the injured employee, or if the disability extends beyond a period of sixty (60) days, then also at the expiration of ***that*** ~~[such]~~ period***,*** the employer shall make a supplementary report to the ***commissioner*** ~~[board]~~ on blanks procured from the ***department*** ~~[board]~~ for the purpose.

Section 69. KRS 342.185 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless an application for adjustment of claim for compensation with respect to ***the*** ~~[such]~~ injury shall have been made with the ***department*** ~~[board]~~ within two (2) years after the date of the accident, or in case of death, within two (2) years after ***the*** ~~[such]~~ death, whether or not a claim has been made by the employee himself for compensation. ***The*** ~~[Such]~~ notice and ***the*** ~~[such]~~ claim may be given or made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of income benefits ~~[as such]~~ have been made***,*** ~~[voluntarily]~~ the filing of an application for adjustment of claim with the ***department*** ~~[board]~~ within ***the*** ~~[such]~~ period shall not be required, but shall become requisite within two (2) years following the suspension of ~~[such voluntary]~~ payments or within two (2) years of the date of the accident, whichever is later.

(2) The right to compensation under this chapter resulting from work-related exposure to the human immunodeficiency virus shall be barred unless notice of the injurious exposure is given in accordance with subsection (1) of this section and unless an application for adjustment of claim for compensation shall have been made with the commissioner within five (5) years after the injurious exposure to the virus.

SECTION 70. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any insurer providing workers' compensation insurance coverage for a Kentucky location shall provide proof of coverage to the commissioner of the Department of Workers' Claims in the Labor Cabinet in accordance with the requirements of the chapter.

Section 71. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against ***the*** ~~[such]~~ other person to recover damages, or proceed both against the employer for compensation and ***the*** ~~[such]~~ other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against ***the*** ~~[such]~~ other person to recover damages, he shall give due and timely notice to the employer ***and the special fund*** of the filing of ***the*** ~~[such]~~ action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. ***The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).***

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays ***the*** ~~[such]~~ compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but ***the*** ~~[such]~~ proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall ***the*** ~~[such]~~ claim be barred by limitations, ***if the*** ~~[provided such]~~ claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for such waiver of remedies.

SECTION 72. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Beginning on January 1, 1995, and pursuant to administrative regulations promulgated under KRS Chapter 13A by the commissioner, each insurance company writing workers' compensation insurance policies in the Commonwealth, every group of self-insurers, and each employer carrying its own risk shall file in the manner directed by the commissioner, detailed claim information contained in the model regulation developed by the National Association of Insurance Commissioners (NAIC) in conjunction with the International Association of Industrial Accident Boards and Commissions (IAIABC).

SECTION 73. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 1994, the Kentucky Occupational Safety and Health Program shall be expanded by sixteen (16) employees. These additional staff shall assist employers in their efforts to improve safety and health practices in their workplaces; to assure compliance with industrial health and safety regulations; and to expedite the processing of contested citations and appeals. These additional expenditures shall be financed by funds collected for the special fund pursuant to KRS 342.122.

Section 74. KRS 342.765 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 342 to the contrary, the office of the Attorney General shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund. Funds to reimburse the Attorney General's office for expenses incurred in litigation and administration in defense of the uninsured employers' fund shall be transferred upon request of the Attorney General's office and approval by the secretary of the Labor Cabinet.

(2) The office of the Attorney General shall report monthly to the Interim Joint Committee on Appropriations and Revenue***, the Interim Joint Committee on Labor and Industry, and the commissioner*** the amount of the agency fund expenditures in each month for the uninsured employers' fund and the nature of ***these*** [~~such~~] expenditures. ***In addition, the Office of the Attorney General shall report quarterly to the commissioner on the amount of funds recouped from uninsured employers.***

Section 75. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order***,*** or decision any party may file a petition for reconsideration of the award, order, or decision of the administrative law judge. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The administrative law judge shall be limited in ***the*** [~~such~~] review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make ***any*** [~~such~~] correction within ten (10) days after submission. ***The failure to file a petition for reconsideration shall not preclude an appeal on any issue.***

PART 15

GENERAL CONFORMING AMENDMENTS

Section 76. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid except that if the administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the ***fifteenth*** [~~15th~~] day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the ***commissioner*** [~~board~~] of ***the*** [~~such~~] termination or failure to make payments and the ***commissioner*** [~~board~~] shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.

(3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 77. KRS 342.140 is amended to read as follows:

The average weekly wage of the injured employee at the time of the injury or last injurious exposure shall be determined as follows:

(1) If at the time of the injury which resulted in death or disability or the last date of injurious exposure preceding death or disability from an occupational disease:

(a) The wages were fixed by the week, the amount so fixed shall be the average weekly wage;

(b) The wages were fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve (12) and divided by fifty-two (52);

(c) The wages were fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two (52);

(d) The wages were fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen (13) the wages (not including overtime or premium pay) of said employee earned in the employ of the employer in the first, second, third, or fourth period of thirteen (13) consecutive calendar weeks in the fifty-two (52) weeks immediately preceding the injury.

(e) The employee had been in the employ of the employer less than thirteen (13) calendar weeks immediately preceding the injury, his average weekly wage shall be computed under paragraph (d), taking the wages (not including overtime or premium pay) for ***that*** [~~such~~] purpose to be the amount he would have earned had he been so employed by the employer the full thirteen (13) calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

(f) The hourly wage has not been fixed or cannot be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where ***the*** [~~such~~] services are rendered by paid employees.

(2) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth (1/50) of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the injury.

(3) In the case of volunteer firemen, police, and civil defense members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(4) If the employee was a minor, apprentice, or trainee when injured, and it is established that under normal conditions his wages should be expected to increase during the period of disability, that fact may be considered in computing his average weekly wage.

(5) When the employee is working under concurrent contracts with two (2) or more employers and the defendant employer has knowledge of ***the*** [~~such~~] employment prior to the injury, his wages from all ***the*** [~~such~~] employers shall be considered as if earned from the employer liable for compensation.

(6) The term "wages" as used in this section and KRS 342.143 means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, and fuel or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer to the extent ***the*** [~~such~~] gratuities are reported for income tax purposes.

(7) The ***commissioner*** [~~board~~] shall, from time to time, based upon the best available information, determine by ***administrative*** regulation industries which ordinarily do not have a full working day for five (5) days in every week. In ***those*** [~~such~~] industries***,*** compensation shall be computed at the average weekly wage earned by the employee at the time of injury reckoning wages as earned while working full time. "At full time" as used ***in this subsection*** [~~herein~~] means a full working day for five (5) working days in every week regardless of whether the injured employee actually worked all or part of the time.

Section 78. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required ***by this subsection*** [~~herein~~], shall be the same as, and in accordance with, state travel ***administrative*** regulations and standards promulgated and established pursuant to KRS Chapter ***45*** [~~18A~~].

(3) If an employee refuses to submit himself to or in any way obstructs ***the*** [~~such~~] examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the administrative law judge may require.

(5) The ***department*** [~~board~~] shall supply forms for the report.

Section 79. KRS 342.235 is amended to read as follows:

The ***commissioner*** [~~board~~] and [~~its~~] employees or authorized representatives ***of the department*** shall, for traveling necessitated by the discharge of official duties, be reimbursed for transportation actually paid for, not exceeding the regular fare over the most direct route, and meals and lodging actually paid for.

Section 80. KRS 342.240 is amended to read as follows:

The ***department*** [~~board~~] shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The ***commissioner*** [~~board~~] shall provide necessary supplies, books, [~~and~~] periodicals, and maps and shall provide [~~itself with~~] a seal for the authentication of [~~its~~] orders, awards, or proceedings [~~and those~~] of the administrative law judges, on which shall be inserted the words "***Department of Workers' Claims*** [~~Workers' Compensation Board~~], State of Kentucky, official seal." The board and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the ***commissioner*** [~~board~~], all actions or proceedings against ***the board*** [~~it~~] or a member in his official capacity, or against an administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 81. KRS 342.260 is amended to read as follows:

(1) The ***commissioner*** [~~board~~] shall prepare [~~such~~] administrative regulations as ***he*** [~~it~~] considers necessary to carry on ***the*** [~~its~~] work ***of the department*** and the work of the administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.

(2) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof or any administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined ***those*** [~~such~~] parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(3) The sheriff shall serve all subpoenas of the board and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to ***the*** [~~such~~] subpoena of the board or any administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.

(4) The Circuit Court shall, on application of the board, any member thereof, or any administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 82. KRS 342.285 is amended to read as follows:

(1) An award or order of the administrative law judge as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions of fact, but either party may in accordance with administrative regulations promulgated by the ***commissioner*** [~~board~~] appeal to the Workers' Compensation Board for the review of ***the*** [~~such~~] order or award.

(2) No new or additional evidence may be introduced before the board except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling, or award, but the board shall otherwise hear the appeal upon the record as certified by the administrative law judge and shall dispose of the appeal in summary manner. The board shall not substitute its judgment for that of the administrative law judge as to the weight of evidence on questions of fact, its review being limited to determining whether or not:

(a) The administrative law judge acted without or in excess of his powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the provisions of this chapter;

(d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or

(e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(3) Within thirty (30) days from final submission, the board shall enter its decision affirming, modifying, or setting aside the order, decision, or award, or in its discretion remanding the claim to the administrative law judge for further proceedings in conformity with the direction of the board. The board may, before decision and upon a sufficient showing of fact, remand the claim to the administrative law judge.

Section 83. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employee was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time, except as otherwise provided in paragraph (a) of subsection (10) of this section; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, except that the time of the beginning of retraining incentive benefits awarded under KRS 342.732 shall be the date the award for ***those*** [~~such~~] benefits by the administrative law judge becomes final.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to ***the*** [~~such~~] disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted ***the*** [~~such~~] disease, or a diagnosis of ***the*** [~~such~~] disease is first communicated to him, whichever shall first occur;

(b) Except as provided in paragraph (d) of this subsection, the procedure with respect to filing of claims shall be as follows:

1. a. The application shall set forth the complete work history of the applicant with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The reports shall be made by duly licensed physicians. [~~Within one hundred and eighty (180) days following October 26, 1987,~~] The ***commissioner*** [~~board~~] shall promulgate administrative regulations which prescribe the format of the medical reports required ***by this section*** [~~herein~~] and the manner in which ***the*** [~~such~~] reports shall be completed.

b. For coal-related occupational pneumoconiosis claims, each clinical examination shall include chest X-ray examinations and spirometric tests.

c. For other compensable occupational pneumoconiosis claims, each clinical examination shall include X-ray examinations and appropriate pulmonary function tests.

2. To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust, shall comply with accepted medical standards as follows:

a. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

b. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and the 1978 ATS epidemiology standardization project. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The ***commissioner*** [~~board~~] shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of subsection (2)(b) of this section. The ***commissioner*** [~~board~~] shall periodically review the applicability of the spirometric test values contained in the latest edition available of the guides to the evaluation of permanent impairment published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

(c) Except as provided in paragraph (d) of this subsection, the procedure with respect to the determination of claims shall be as follows:

1. Immediately upon receipt of said application for adjustment of claim, the commissioner shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim;

2. Upon receipt of notice of the claim***,*** the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. Within thirty (30) days of any such examination, the claimant or his representative shall be furnished a copy of said medical report by the party requesting such report. Also, the employer, the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at ***the employer's*** [~~their~~] expense, including a reasonable sum for travel. Within thirty (30) days of any ***vocational*** [~~such~~] examination, the claimant or his representative, shall be furnished a copy of ***that*** [~~said~~] vocational report by the party requesting ***that*** [~~such~~] report; and

3. Within sixty (60) days of the receipt of the claim, the employer, the special fund, and any other interested party shall notify the ***commissioner*** [~~board~~] and the claimant whether or not the claim will be resisted. If the claim is not resisted, then an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall set a date for a prehearing conference and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] shall be followed. Upon request of an interested party and a showing of good cause, the administrative law judge may extend, one (1) time, the time period for filing a notice of resistance as prescribed in this subparagraph, ***but the*** [~~provided said~~] extension shall not exceed thirty (30) days.

(d) For claims filed under subsection (1)(a) of KRS 342.732, the procedure shall be as follows:

1. For retraining incentive benefits under KRS 342.732, the claimant shall file two (2) X-rays and the reports thereof which shall conform to the standard for X-rays contained ***in this subsection*** [~~herein~~].

2. The commissioner shall notify the affected employer of ***the*** [~~such~~] claim and shall furnish him with a full and complete copy of the claim.

3. Within sixty (60) days of the receipt of the claim, the employer shall notify the commissioner and the claimant whether or not the claim will be resisted. If the claim is not resisted, an administrative law judge shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the administrative law judge shall notify the affected employee thereof. In litigated claims, the regular procedures prescribed by the ***commissioner*** [~~Workers' Compensation Board~~] shall be followed.

(3) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the ***commissioner*** [~~Workers' Compensation Board~~] within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within ***that*** [~~said~~] period, unless a claim therefor be filed with the ***commissioner*** [~~Workers' Compensation Board~~] within three (3) years after ***the*** [~~such~~] death; ***but*** [~~provided, however,~~] that notice of [~~such~~] claim shall be deemed waived in case of

disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employee and its cause was known to the employer. ~~[Provided,]~~ However, ~~[that]~~ the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the ***commissioner*** ~~[Workers' Compensation Board]~~ within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income or retraining incentive benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(4) The amount of compensation payable for disability due to occupational disease or for death from ***the*** ~~[such]~~ disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but***:***

(a) In no event ***shall the payment*** ~~[to]~~ exceed ***the*** ~~[such]~~ amounts ***that*** ~~[as]~~ were in effect at the time of the last injurious exposure***;***~~[, and provided further, that]~~

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later***;***~~[,]~~ and

(c) ~~[provided further, that]~~ In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, ***and*** an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section.

(5) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(6) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of ***the occupational*** ~~[such]~~ disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration***,*** and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(7) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, ***except*** ~~[save]~~ only ***for*** ~~[to]~~ after-born children of a marriage existing at the beginning of such disability.

(8) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of ***the*** ~~[such]~~ cause, that the claim for injury, disability***,*** or death which was the basis for ***his*** ~~[such]~~ application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for ~~[such]~~ injury, disability***,*** or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and ~~[such]~~ compensation may be awarded ***that*** ~~[as]~~ is warranted by the whole evidence pursuant to the provisions of this chapter. When ~~[such]~~ amendment ***of this type*** is submitted, further or additional evidence may be heard by the administrative law judge when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required ***by this subsection*** ~~[herein]~~.

(9) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided ***in this chapter*** ~~[herein]~~.

(10) (a) Except as provided in paragraph (c) of this subsection, the employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employee was last exposed to the hazard of ***that*** ~~[such]~~ occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disability only after an exposure of five (5) or more years, or for

silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the ***commissioner*** [~~board~~] may provide for such purpose; and

(b) In all claims for compensation partially payable by the special fund, the Director of the Division of the Special Fund shall be designated as codefendant.

(c) The employer in whose employment the employee was last exposed to the hazard of the disease shall alone be liable for payment of retraining incentive benefits awarded under KRS 342.732.

Section 84. KRS 342.350 is amended to read as follows:

(1) In order to comply with KRS 342.340, groups of employers may form, either among themselves or with employers in other states, mutual insurance associations***,*** or reciprocal or interinsurance exchanges subject to the insurance laws of this state and ***any*** [~~such~~] reasonable conditions and restrictions not inconsistent therewith [~~as may be~~] fixed by the ***commissioner*** [~~board~~]. Membership in ***these*** [~~such~~] mutual insurance associations or reciprocal or interinsurance exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

(2) The ***commissioner*** [~~board~~] may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make ***a*** [~~such~~] deposit with a bank or trust company of this state ***that*** [~~as~~] shall in either case be approved by the ***commissioner*** [~~board~~] for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars ($100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make [~~such~~] a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

(4) In addition, the ***commissioner***[~~board~~], under ***administrative*** [~~rules and~~] regulations ***that he*** [~~as it~~] shall prescribe, may permit eleven (11) or more employers or two (2) or more city, county, municipal, or urban-county employers or their agencies to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. Employers securing certification as group self-insurers are regulated by the ***administrative*** [~~rules and~~] regulations drawn by the ***commissioner*** [~~Workers' Compensation Board~~] and are not to be in any way subject to the provisions of subsections (1), (2), and (3) of this section; [~~provided,~~] however, [~~that~~] the Governor may assign the regulatory authority under this subsection to another board or agency pursuant to KRS 12.028.

Section 85. KRS 342.380 is amended to read as follows:

No policy of insurance or rider to be used therewith shall be issued or delivered until a copy of its form has been filed with the commissioner [~~of the Department of Insurance~~] at least thirty (30) days before such issue or delivery, unless before the expiration of thirty (30) days the commissioner has approved the form thereof in writing; nor if the commissioner notifies the company in writing that in his opinion the form of the policy or rider does not comply with the laws of this state, specifying fully the reasons for his opinion. Upon petition of the company***,*** the decision of the commissioner shall be subject to review by the Franklin Circuit Court and to appeal therefrom to the Court of Appeals.

Section 86. KRS 342.382 is amended to read as follows:

(1) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on its workers' compensation experience only to the Department of ***Workers' Claims***[~~Insurance~~] and the Workers' Compensation Advisory Council each year***,*** and ***that*** [~~such~~] information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment gain or loss.

(2) [~~(a)~~] The first report of the information required in subsection (1) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988. Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (1) of this section broken down by year for the current and two (2) preceding years.

[~~(b) Within thirty (30) days after March 1, 1989, the Department of Insurance shall commence a review of the rates of all workers' compensation insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within sixty (60) days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department shall order that a new rate schedule be thereafter filed by the filer and shall further specify the manner in which noncompliance shall be corrected.~~]

Section 87. KRS 342.395 is amended to read as follows:

(1) Where an employer is subject to this chapter, then every employee of ***that*** [~~such~~] employer, as a part of his contract of hiring or who may be employed at the time of the acceptance of the provisions of this chapter by ***the*** [~~such~~] employer, shall be deemed to have accepted all the provisions of this chapter and shall be bound thereby unless he shall have filed, prior to the injury or incurrence of occupational disease, written notice to the contrary with the employer; and ***the*** [~~such~~] acceptance shall include all of the provisions of this chapter with respect to traumatic personal injury, silicosis***,*** and any other occupational disease. However, before an employee's written notice of rejection shall be considered effective, the employer ***shall*** [~~must~~] file the employee's notice of rejection with the ***Department of Workers' Claims***[~~Workers' Compensation Board~~]. The ***commissioner of that department*** [~~Workers' Compensation Board~~] shall not give effect to any rejection of this chapter not voluntarily made by the employee. If an employee withdraws his rejection, the employer shall notify the ***commissioner***[~~Workers' Compensation Board~~].

(2) Until [~~such~~] notice to the contrary ***as specified in subsection (1) of this section*** is [~~so~~] given to the employer, the measure of liability of ***the*** [~~such~~] employer shall be determined according to the compensation provisions of this chapter. Any [~~such~~] employee, may, without prejudice to any existing right or claim, withdraw his election to reject this chapter by filing with the employer a written notice of withdrawal, stating the date when the withdrawal is to become effective. Following the filing of ***that*** [~~such~~] notice, the status of the party withdrawing shall become the same as if the former election to reject this chapter had not been made, except that withdrawal shall not be effective as to any injury sustained or disease incurred less than one (1) week after the notice is filed.

Section 88. KRS 342.402 is amended to read as follows:

The ***commissioner***[~~Workers' Compensation Board~~], upon showing a certification of noncompliance, may temporarily restrain or temporarily or permanently enjoin the further operation of any employer covered by this chapter. ***The*** [~~Such~~] action shall be brought in Franklin Circuit Court.

Section 89. KRS 342.425 is amended to read as follows:

Upon the request of the ***commissioner***[~~board~~], the Attorney General, or, under his direction, the Commonwealth's attorney or county attorney of any county, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this chapter arising within his jurisdiction, and shall defend in like manner all actions or proceedings brought against the ***department***[~~board~~], the ***employees*** [~~members~~] thereof***, board members,*** or administrative law judges in their official capacity.

Section 90. KRS 342.430 is amended to read as follows:

The ***commissioner*** [~~board~~] shall prepare and furnish, free of charge, blank forms of all notices, claims, reports, proofs***,*** and other blank forms and literature which ***he*** [~~it~~] considers proper and requisite to the efficient administration of this chapter. ***He*** [~~It~~] may authorize the publication and distribution of ***these*** [~~such~~] blanks by employers and their insurers in manner and form provided by ***him***[~~it~~], and shall ***promulgate administrative regulations*** [~~make rules~~] for their distribution so that they may be readily available.

Section 91. KRS 342.435 is amended to read as follows:

Annually on or before the ***fifteenth*** [~~15th~~] day of December***,*** the ***commissioner*** [~~board~~] shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the ***commissioner*** [~~board~~] deems proper to call to the attention of the Governor, including any recommendations ***he*** [~~it~~] may have to make, and it shall be the duty of the ***commissioner*** [~~board~~] to publish and distribute among employers and employees ***any*** [~~such~~] general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to ***the*** [~~such~~] provisions of the general laws governing public printing [~~as may be~~] applicable thereto.

Section 92. KRS 342.650 is amended to read as follows:

The following employees are exempt from the coverage of this chapter:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two (2) employees each regularly employed forty (40) or more hours a week in ***domestic servant*** [~~such~~] employment.

(2) Any person employed, for not exceeding twenty (20) consecutive work days, to do maintenance, repair, remodeling, or similar work in or about the private home of the employer, or if the employer has no other employees subject to this chapter, in or about the premises where ***that*** [~~such~~] employer carries on his trade, business***,*** or profession.

(3) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(4) Any person for whom a rule of liability for injury or death is provided by the laws of the United States, except those persons covered under Title IV, Public Law 91-173, 91st Congress, commonly referred to as the Black Lung Benefits of the Federal Coal Mine Health and Safety Act of 1969, or as amended.

(5) Any person employed in agriculture.

(6) Any person who would otherwise be covered but who elects not to be covered in accordance with the ***administrative*** [~~rules and~~] regulations promulgated by the ***commissioner***[~~board~~].

(7) Any person participating as a driver or passenger in a voluntary vanpool or carpool program while that person is on the way to or from his place of employment. For the purposes of this subsection***,*** carpool or vanpool means any method by which two (2) or more employees are transported from their residences to their places of employment.

Section 93. KRS 342.660 is amended to read as follows:

(1) An employer who has in his employment any employee exempted under KRS 342.650 may elect to be subject to this chapter. ***This*** [~~Such~~] election on the part of the employer shall be made by the employer securing the payment of compensation to ***these*** [~~such~~] exempted employees in accordance with KRS 342.340. Any employee, otherwise exempted under KRS 342.650, of ***the*** [~~such~~] employer shall be deemed to have elected to come under this chapter, if at the time of the injury for which liability is claimed, ***his*** [~~such~~] employer has in force an election to be subject to this chapter with respect to the employment in which ***the*** [~~such~~] employee was injured and ***the*** [~~such~~] employee has not, either upon entering into employment or within five (5) days after the filing of an election by the employer given to ***his*** [~~such~~] employer and to the ***commissioner*** [~~board~~] notice in writing that he elects not to be subject to this chapter.

(2) ***An*** [~~Such~~] employer ***within the scope of subsection (1) of this section***, within five (5) days after securing the payment of compensation in accordance with KRS 342.340, shall give the ***commissioner*** [~~board~~] written notice of his election to be subject to this chapter. ***The*** [~~Such~~] employer shall post and keep posted on the premises where any employee or employees, otherwise exempted under KRS 342.650, works, printed notices furnished by the ***commissioner*** [~~board~~] stating his acceptance of this chapter. Failure to give the notices required by this paragraph shall not void or impair the employer's election to be subject to or relieve him of any liability under this chapter.

(3) Any employer who has complied with subsection (2) of this section may withdraw his acceptance of this chapter, by filing written notice with the ***commissioner*** [~~board~~] of the withdrawal of his acceptance. ***A*** [~~Such~~] withdrawal shall become effective 60 days after the filing of [~~such~~] notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The withdrawal shall not be effective until the employer shall theretofore post notice of ***the*** [~~such~~] withdrawal where the affected employee or employees work or shall otherwise notify ***the*** [~~such~~] employees of [~~such~~] withdrawal.

Section 94. KRS 342.670 is amended to read as follows:

(1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this chapter had ***that*** [~~such~~] injury occurred within this state, ***that*** [~~such~~] employee, or in the event of his death resulting from ***that*** [~~such~~] injury, his dependents, shall be entitled to the benefits provided by this chapter, ***if*** [~~provided that~~] at the time of ***the*** [~~such~~] injury:

(a) His employment is principally localized in this state, or

(b) He is working under a contract of hire made in this state in employment not principally localized in any state, or

(c) He is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to his employer, or

(d) He is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, ***if a*** ~~[provided that]~~ claim under this chapter is filed within two (2) years after ***that*** ~~[such]~~ injury or death. If compensation is paid or awarded under this chapter:

(a) The medical and related benefits furnished or paid for by the employer under ***another jurisdiction's*** ~~[such other]~~ workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(b) The total amount of all income benefits paid or awarded the employee under ***another jurisdiction's*** ~~[such other]~~ workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter; ***and***

(c) The total amount of death benefits paid or awarded under ***another jurisdiction's*** ~~[such other]~~ workers' compensation law shall be credited against the total amount of death benefits due under this chapter***.***~~[;]~~

(3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the ***commissioner*** ~~[board]~~ a certificate, issued by the commission or agency of ***the*** ~~[such]~~ other state having jurisdiction over workers' compensation claims, certifying that ***the*** ~~[such]~~ employer has secured the payment of compensation under the workers' compensation law of ***the*** ~~[such]~~ other state and that with respect to ***the*** ~~[said]~~ injury ***the*** ~~[such]~~ employee is entitled to the benefits provided under ***that*** ~~[such]~~ law, and that the benefits to which ***the*** ~~[such]~~ employee or his dependents is entitled are at least as great as those to which he would be entitled if the injury occurred and was processed under Kentucky law, under Kentucky coverage. In ***this*** ~~[such]~~ event:

(a) The filing of ***the*** ~~[such]~~ certificate shall constitute an appointment by ***the*** ~~[such]~~ employer or his carrier of the ***commissioner*** ~~[board]~~ as his agent for acceptance of the service of process in any proceeding brought by ***the*** ~~[such]~~ employee or his dependents to enforce his or their rights under this chapter on account of ***the*** ~~[such]~~ injury;

(b) The ***commissioner*** ~~[board]~~ shall send to ***the*** ~~[such]~~ employer or carrier, by certified mail to the address shown on ***the*** ~~[such]~~ certificate, a true copy of any notice of claim or other process served on the ***commissioner*** ~~[board]~~ by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(c) 1. If ***the*** ~~[such]~~ employer is a qualified self-insurer under the workers' compensation law of ***the*** ~~[such]~~ other state, ***the*** ~~[such]~~ employer shall, upon submission of evidence satisfactory to the ***commissioner*** ~~[board]~~, of his ability to meet his liability to ***the*** ~~[such]~~ employee under this chapter, be deemed to be a qualified self-insurer under this chapter;

2. If ***the*** ~~[such]~~ employer's liability under the workers' compensation law of ***the*** ~~[such]~~ other state is insured, ***the*** ~~[such]~~ employer's carrier, as to ***the*** ~~[such]~~ employee or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; ~~[provided,]~~ however, ~~[that]~~ unless its contract with ***the*** ~~[said]~~ employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of ***the*** ~~[such]~~ benefits for which ***the*** ~~[such]~~ insurer would have been liable under the workers' compensation law of ***the*** ~~[such]~~ other state;

(d) If the total amount for which ***the*** ~~[such]~~ employer's insurance is liable under (c) above is less than the total of the compensation benefits to which ***the*** ~~[such]~~ employee is entitled under this chapter, the ***commissioner*** ~~[board]~~ may, if ***he*** ~~[it]~~ deems it necessary, require the employer to file security, satisfactory to the ***commissioner*** ~~[board]~~, to secure the payment of benefits due ***the*** ~~[such]~~ employee or his dependents under this chapter; and

(e) Upon compliance with the preceding requirements of this subsection (3), ***the*** ~~[such]~~ employer, as to ***the*** ~~[such]~~ employee only, shall be deemed to have secured the payment of compensation under this chapter.

(4) As used in this section:

(a) "United States" includes only the states of the United States and the District of Columbia;

(b) "State" includes any state of the United States, the District of Columbia, or any province of Canada;

(c) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law;

(d) A person's employment is principally localized in this or another state when:

1. His employer has a place of business in this or ***the*** ~~[such]~~ other state and he regularly works at or from ***that*** ~~[such]~~ place of business, or

2. If subparagraph 1. foregoing is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or ***the*** [~~such~~] other state;

(e) An employee whose duties require him to travel regularly in the service of his employer in this and one (1) or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another [~~such~~] state, and, unless ***the*** [~~such~~] other state refuses jurisdiction, ***the*** [~~such~~] agreement shall be given effect under this chapter;

(f) "Workers' compensation law" includes "occupational disease law."

Section 95. KRS 342.720 is amended to read as follows:

If death results from the injury, the employer shall pay the cost of burying in an amount not to exceed four thousand dollars ($4,000) to any person who performed ***the*** [~~such~~] service or incurred the liability for the service, whether or not the employee leaves dependents within the meaning of this chapter. Any such person is hereby authorized to file a petition with the ***commissioner*** [~~board~~] for the fixing of the amount of the service and for an order requiring the employer to pay the cost of the service. If death occurs while the employee is away from his usual place of business or residence, the employer shall be liable for the additional reasonable cost of transportation of the body to the employee's place of residence within the Commonwealth of Kentucky.

Section 96. KRS 342.740 is amended to read as follows:

(1) For the purposes of this chapter, the average weekly wage of the state shall be determined by the ***commissioner*** [~~board~~] as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky Unemployment Insurance Law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. ***This*** [~~Such~~] average weekly wage shall be certified to the ***commissioner*** [~~board~~] by the Cabinet for Human Resources in a manner prescribed by the ***commissioner*** [~~board~~] by ***administrative*** regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(2) Whenever a change in the average weekly wage of the state is of ***an*** [~~such~~] amount that ***increases or decreases*** the minimum weekly income benefits for total disability or death [~~are increased or decreased~~] by $1 or more, or the maximum weekly income benefits for total disability or for death [~~are increased or decreased~~] by $2 or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in ***these*** [~~such~~] limitations shall otherwise be made.

Section 97. KRS 342.1227 is amended to read as follows:

Except as provided in Section 53. of this Act, funds which are under the jurisdiction of the commission shall not:

(1) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authorized by this chapter;

(3) Be expended for any other purpose than one authorized by this chapter.

Section 98. KRS 342.790 is amended to read as follows:

When an award is made against an employer who:

(1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer;[~~,~~] and

(2) Has not made a deposit of security, indemnity, or bond acceptable to the ***commissioner*** [~~board~~] to secure the payment of compensation liability; and

(3) Has failed to make payment of compensation according to the terms of ***that*** [~~such~~] award, the award shall constitute a liquidated claim for damages against ***that*** [~~such~~] employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the ***commissioner*** [~~board~~], and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against ***that*** [~~such~~] employer in the name of the uninsured employers' fund for the collection of ***that*** [~~such~~] award. In ***that*** [~~such~~] action, it shall be sufficient for plaintiff to set forth a copy of the award of the administrative law judge relative to ***the*** [~~such~~] claim as certified by the commissioner and to state that there is due to plaintiff on [~~such~~] account of ***the*** [~~such~~] opinion, order, or award of the administrative law judge a specified sum which plaintiff claims with interest. A certified copy of ***the*** [~~such~~] award in ***the*** [~~such~~] claim shall be attached to the complaint and ***shall constitute*** [~~constitutes~~] prima facie evidence of the truth of the facts therein contained.

Section 99. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon these farmlands, shall have the same privilege.

(4) Residents or nonresidents observing, and participating in any field trial as authorized by the department may observe and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while doing so shall carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the Veterans Administration. He shall forward the copy to the Director of the Division of Law Enforcement of the Department of Fish and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of the certification.

(8) Any resident who is declared totally and permanently disabled by the Federal Social Security Administration or by the state ***Department of Workers' Claims*** ~~[Workers' Compensation Board]~~ may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses.

(9) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(10) If a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 100. KRS 164.2842 is amended to read as follows:

(1) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice Cabinet, the appropriate local law

enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(3) In the absence of certification of permanent and total disability by the Kentucky ***Department of Workers' Claims*** [~~Workers' Compensation Board~~], the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.

(6) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 101. KRS 164.515 is amended to read as follows:

(1) The spouse, regardless of age, and any child or orphan of a permanently and totally disabled member of the Kentucky National Guard injured while on state active duty, active duty for training, or inactive duty training, a permanently and totally disabled war veteran or prisoner of war or member of the Armed Services declared missing in action, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education or to any state supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans' Administration or the Department of Defense or if deceased the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans' Administration Records, or the Department of Defense of the United States.

(3) In the absence of certification of permanent and total disability by the Kentucky ***Department of Workers' Claims*** [~~Workers' Compensation board~~], the United States Veterans' Administration or the Department of Defense, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(5) To entitle a spouse, child or orphan to benefit under this section the disabled member of the National Guard or war veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training with the National Guard or during time of war or the Korean conflict or subsequent periods of federally recognized hostilities or have been disabled by hostile fire in the Armed Forces of the United States, and his discharge therefrom must have been under honorable conditions. He must be a resident or if deceased, was a resident of the Commonwealth of Kentucky.

(6) No provision of this section shall serve to deny these benefits to an eligible spouse, child, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged therefrom under honorable conditions; such period of time spent in the military service to be compensated by like time, beyond the age of twenty-three (23) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

(7) The marriage of an eligible child, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

PART 16

REPEALS

Section 102. The following KRS section is repealed:

342.800 Application to claims -- Filing under Federal Coal Mine Health and Safety Act.

PART 17

EFFECTIVE DATES

Section 103. (1) Subsection (25) of Section 1 of this Act relating to the definition of premiums for deductible policies shall be effective retroactively for insurance policies or other evidences of coverage with deductibles in effect on and after January 1, 1994.

(2) The provisions of subsection (6) of Section 33 of this Act that relate to special fund assessments on deductible insurance policies or other evidences of coverage providing a deductible shall be effective retroactively for policies or other evidences of coverage in effect on or after January 1, 1994.

(3) The provisions of Section 35 that relate to refunds or credits for special fund assessments shall be effective retroactively to January 1, 1994.

Section 104. The revised attorney's fee maximum amount contained in Section 30 of this Act shall apply to injuries and occupational diseases occurring on or after the effective date of this Act.

Section 105. Whereas there is a workers' compensation crisis in the Commonwealth; and the projected unfunded liability of the Workers' Compensation special fund is projected to be approximately two billion dollars ($2,000,000,000.00); and the voluntary insurance market in the Commonwealth is rapidly disappearing and approximately fifty percent (50%) of the workers' compensation insurance market is in the Kentucky Workers Compensation Insurance Plan (KWCIP), the workers' compensation residual market mechanism in the Commonwealth; and more than fifty percent (50%) of each workers' compensation benefit dollar is attributable to medical costs, an emergency is declared to exist and the provisions of this Act shall become effective upon their passage and approval by the Governor.".

Representative Cyrus moved that the House concur in the Senate Committee Substitute to **HB 928**. Agreed.

Representative Cyrus moved that the House concur in Senate Floor Amendment No. 16 to the Senate Committee Substitute to **HB 928**. Agreed.

Representative Cyrus moved that **HB 928**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 6. (See March 30, 1994 roll call on **HB 928** - Appendix)

HB 928, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 928**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 242, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Curd moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 242**. Agreed.

SB 119, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Morris moved that the House refuse to recede from House Floor Amendment No. 4 to **SB 119**. Agreed.

SB 162, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved that the House recede from House Floor Amendment No. 1 to **SB 162**.

On the roll call to recede from House Floor Amendment No. 1 to **SB 162**, the vote was **Yeas 62**--Altman, Arnold, Ballard, Barrows, Bondurant, Bowling, Brown, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, Gee, Geveden, Gray, Hancock, Harper, Hatcher, Jensen, Johnson, Lear, Lee, LeMaster, Lewis, Lile, Little, Lyne, Maggard, Marzian, McElroy, Moberly, Napier, Northup, Palumbo, Rapier, Rasche, Ridley, Riner, Scorsone, Scott, Shacklette, Simpson, R. Smith, Stengel, Stumbo, Todd, Trapp, Walton, Wayne. **Nays 24**--Adams, Adkins, Allen, Bentley, Bryant, Buis, Coleman, Collins, Graham, Hampton, Heleringer, Keith, Lindsay, Maricle, Mullinix, Nelson, Nesler, Nunn, Reinhardt, Sanders, B. Smith, Stacy, Treesh, Turner.

The motion to recede from House Floor Amendment No. 1 to **SB 162** was adopted.

Representative Moberly moved that **SB 162** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 30, 1994, roll call on **SB 162** - Appendix)

Representative Moberly moved that the vote by which **SB 162** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess . Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 13, SB 33, SB 39, SB 43, SB 47, SB 55, SB 61, SB 76, SB 80, SB 93, SB 107, SB 221, SB 245, SB 266, SB 281, SB 319, HB 46, HB 56, HB 158, HB 187, HB 203, HB 327, HB 385, HB 442, HB 481, HB 511, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103** and **HCR 104** have been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time: 4:07 p.m.)

HB 46, HB 56, HB 158, HB 187, HB 203, HB 327, HB 385, HB 442, HB 481, HB 511, HCR 99, HCR 100, HCR 101, HCR 102, HCR 103 and **HCR 104** delivered to the Senate, signed by the President. Delivered to the Governor on March 30, 1994 at 5:10 p.m.

Orders of the Day (Continued)

Representative Richards moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 121, by Representative Richards: A RESOLUTION in loving memory and honor of Congressman William Natcher.

Representative Richards moved the adoption of the following **HR 121**:

HR 121, A RESOLUTION in loving memory and honor of Congressman William Natcher.

The most prominent glory of a country is in its great men - a nation's spirit - and its success will depend on its willingness to learn from their example. In life we shall find many men that are great, and some men that are good, but very few men that are both great and good.

With deepest respect, we pay homage and tribute to Congressman William Natcher.

WHEREAS, William Natcher was born on September 11, 1909, a native of Bowling Green, Warren County, Kentucky, and traversed these earthly bounds on March 29, 1994; and

WHEREAS, William Natcher was the devoted husband of Virginia Reardon Natcher, who preceded him in death; and

WHEREAS William Natcher was the loving father of Louise Natcher Murphy and Celeste Natcher Jirles and adored grandparent of seven grandchildren and 2 great grandchildren; and

WHEREAS, William Natcher graduated from Western Kentucky State Teachers College in 1930 and earned his law degree from Ohio State University in 1933; and

WHEREAS, William Natcher served his country with distinction in the United States Navy during World War II; and

WHEREAS, William Natcher served his constituents with pride as Congressman from the Second Congressional District from January 6, 1954, until his death, and was admired for refusing to accept campaign contributions during his career as a public servant, for driving himself throughout his district during campaigns, and was noted for never spending more than $9,000 of his money on any campaign; and

WHEREAS, on February 6, 1979, he became chairman of the Appropriations Subcommittee for the Departments of Labor, Health and Human Services, and Education, and in January, 1993, he was elected chairman of the House Appropriations Committee; and

WHEREAS, William Natcher's last vote in congress was cast at 7:30 P.M. on Wednesday, February 16, 1994, bringing his lifetime total consecutive votes to 18,401 of which 4,240 votes were quorum calls and 14,161 votes were roll call votes; and

WHEREAS, William Natcher, the gentleman from Kentucky, has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the passing of its native son, William Natcher, and extends to his family its most heartfelt sympathy.

Section 2. That the passion, dedication, intelligence and social consciousness William Natcher brought to the Commonwealth of Kentucky and to this great nation will never be forgotten.

Section 3. That when the House of Representatives adjourns this day, Wednesday, March 30, 1994, it does so in loving memory and honor of Congressman William Natcher.

Section 4. That the clerk of the House is hereby directed to transmit a copy of this resolution to the office of Congressman William Natcher, 2333 Rayburn House Office Building, Washington, D.C. 20515-1702.

HR 121 was adopted by voice vote.

On the roll call to show co-sponsors of **HR 121**, the vote was **Yeas 100**–Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Little, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 0**–

HB 312, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 312** is as follows:

HB 312, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm or other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational instruction. The provisions of this section shall not apply to institutions of postsecondary or higher education.

(2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL
PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE
BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A
TEN THOUSAND DOLLAR ($10,000) FINE.

Failure to post the sign shall not relieve any person of liability under this section.

(3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:

(a) An adult who possesses a firearm, if the firearm is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property;

(b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;

(c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;

(d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;

(e) Civil officers of the United States in the discharge of their official duties;

(f) Any other persons, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm by the principal, assistant principal, administration, or board of trustees of the public or private institution;

(g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the administrator of the educational institution;

(h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or

(i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the administrator of the educational institution.

(4) Unlawful possession of a weapon on school property is a Class D felony.

Section 2. KRS 527.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) *"Booby trap device" shall have the same meaning as set forth in KRS 237.030.*

(2) "Deface" means to remove, deface, cover, alter*,* or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

(3) "Destructive device" shall have the same meaning as set forth in KRS 237.030.

(4)[~~(2)~~] "Firearm" means any weapon which will expel a projectile by the action of an explosive.

(5)[~~(3)~~] "Handgun" means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.

Representative Riggs moved that the House concur in the Senate Committee Substitute to **HB 312**. Agreed.

Representative Riggs moved that **HB 312**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 8. (See March 30, 1994 roll call on **HB 312** - Appendix)

HB 312, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 312**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 390, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 390** is as follows:

HB 390, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

The following definitions apply in Sections 1 to 9 of this Act unless the context otherwise requires:

(1) "Handgun" means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.

(2) "Firearm" means any weapon which will expel a projectile by the action of an explosive.

(3) "Licensed gun dealer" means a person who has a federal firearms license and any business license required by a state or local government entity.

(4) "Loaded" with respect to a firearm means:

(a) There is ammunition in the chamber of the firearm; or

(b) There is ammunition in the cylinder of the firearm; or

(c) There is ammunition in the magazine of a firearm, if the magazine is attached to the firearm.

(5) "Juvenile" means a person who has not attained his eighteenth birthday.

(6) "Ammunition" means loaded ammunition designed for use in any firearm.

(7) "Armor piercing ammunition" means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one (1) or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. "Armor piercing ammunition" does not include shotgun shot required by federal or state environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary of the Treasury of the United States finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary of the Treasury of the United States finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(8) "Black talon ammunition" means ammunition with a soft lead core and having sharp flanges which are designed to expand on discharge.

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) No person shall knowingly sell or transfer a firearm to any person prohibited from possessing it by KRS 527.040.

(2) Any person who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor.

(3) Any firearm transferred in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to

Section 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to knowingly manufacture, sell, deliver, transfer, or import armor piercing ammunition.

(2) Subsection (1) of this section shall not apply to members of the Armed Forces of the United States or law enforcement officers within the scope of their duties, nor shall it prohibit licensed gun dealers from possessing armor piercing ammunition for the purpose of receiving and transferring it to members of the Armed Forces of the United States, or law enforcement officers for use within the scope of their duties.

(3) A violation of subsection (1) of this section shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.

(4) Any armor piercing ammunition transferred, sold, or offered for sale, in violation of this section is contraband and shall be seized and summarily forfeited to the state and shall be disposed of pursuant to Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

Any firearm or ammunition forfeited pursuant to Sections 1 to 4 of this Act shall, upon order of a court of competent jurisdiction, be destroyed, sold, retained as provided in KRS 500.090.

SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who was at the time of the commission of the offense in possession of a firearm, shall:

(a) Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony; or

(b) Be penalized as a Class D felon if the offense would otherwise be a misdemeanor.

(2) The provisions of this section shall not apply to a violation of KRS 218A.210.

SECTION 6. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be in possession of a loaded, as defined in Section 1 of this Act, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.

(2) This section shall not apply to the owner manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.

(3) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.

(4) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to Section 4 of this Act.

Section 7. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction he shall be guilty of a Class D felony. Upon the third and each subsequent conviction, he shall be guilty of a Class C felony.

(3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.

(4) Any person, firm, or corporation violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.

(5) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.

(6) Any person who violates Section 6 of this Act shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

Section 8. KRS 197.170 is amended to read as follows:

(1) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify the Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, ~~[and]~~ the chief of police of the city and county, to which the inmate is released, ***and any victim, as defined in KRS 421.500, who has requested that he be notified on release of a particular inmate who victimized him and who has forwarded a***

current address and telephone number to the Department of Corrections, giving the residence of the person released and the name of the person to whom he was released. ***The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.***

(2) If the Circuit Court notified pursuant to subsection (1) of this section is a court other than the court which sentenced the inmate, the warden shall also notify the sentencing court.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it.

Section 9. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is ***three hundred dollars ($300)*** [~~$100~~] or more, in which case it is a Class D felony.

Section 10. KRS 527.040 is amended to read as follows:

(1) A person is guilty of possession of a ***firearm*** [~~handgun~~] by a convicted felon when he possesses, manufactures, or transports a ***firearm*** [~~handgun~~] when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:

(a) Been granted a full pardon by the Governor or by the President of the United States;

(b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended.

(2) Possession of a ***firearm*** [~~handgun~~] by a convicted felon is a Class D felony ***unless the firearm possessed is a handgun in which case it is a Class C felony***.

(3) The provisions of this section ***with respect to handguns,*** shall apply only to persons convicted after January 1, 1975***, and with respect to other firearms, to persons convicted after the effective date of this Act***.

Section 11. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor, and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation or conditional discharge.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) ***If the offense the person presently stands convicted of is a Class A, B, or C felony,*** a person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration of not less than ten (10) years.

Section 12. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on two (2) prior separate occasions been adjudicated a public offender for a felony offense or a delinquent of a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) ***If a child charged with a Class C or Class D felony in which a firearm was used in the commission of the offense has on one (1) prior separate occasion been adjudicated a public offender for a felony offense or a delinquent for a felony offense, and had attained the age of fourteen (14) at the time of the alleged commission of the firearm-related offense, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.***

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6)[~~(5)~~] A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor or a violation arising from the same course of conduct, shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7)[~~(6)~~] If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8)[~~(7)~~] All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

Section 13. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5), (6), [~~or~~] (7), ***or (8),*** the court shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020, the court shall upon motion by the county attorney to proceed under this chapter, conduct a preliminary hearing to determine if the child should be transferred to Circuit Court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.

  (a) At the preliminary hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

  (b) If the court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the Circuit Court:

    1. The seriousness of the alleged offense;

    2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;

    3. The maturity of the child as determined by his environment;

    4. The child's prior record;

    5. The best interest of the child and community;

    6. The prospects of adequate protection of the public; and

    7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system.

  (c) If, following the completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section, that the child should be transferred to Circuit Court, the court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the Circuit Court as an adult, except as otherwise provided in this chapter.

  (d) If, following completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section that the child shall not be transferred to the Circuit Court, the case shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to Circuit Court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (4), [~~and~~] (6), ***and (7),*** but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in Circuit Court but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.

Section 14. KRS 640.040 is amended to read as follows:

(1) No youthful offender who has been convicted of a capital offense who was under the age of sixteen (16) years at the time of the commission of the offense shall be sentenced to capital punishment. A youthful offender may be sentenced to capital punishment if he was sixteen (16) years of age or older at the time of the commission of the offense. A youthful offender convicted of a capital offense regardless of age may be sentenced to a term of imprisonment appropriate for one who has committed a Class A felony and may be sentenced to life imprisonment without benefit of parole for twenty-five (25) years.

(2) No youthful offender shall be subject to persistent felony offender sentencing under the provisions of KRS 532.080 for offenses committed before the age of eighteen (18) years.

(3) No youthful offender shall be subject to limitations on probation, parole or conditional discharge as provided for in KRS 533.060.

(4) Any youthful offender convicted of a misdemeanor or any felony offense which would exempt him from KRS 635.020(2), (3), (4), (5)*,* ~~[or]~~ (6)*, or (7)* shall be disposed of by the Circuit Court in accordance with the provisions of KRS 635.060.

SECTION 15. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of using restricted ammunition during the commission of a crime when he commits any felony offense under this code and is armed at the time of the commission of the offense or in the immediate flight therefrom with a firearm loaded, as defined in Section 1 of this Act, with armor piercing ammunition as defined in Section 1 of this Act or black talon ammunition as defined in Section 1 of this Act.

(2) Using restricted ammunition during the commission of a crime is:

(a) A Class D felony if no shot is fired;

(b) A Class C felony if a shot is fired and no person is killed or wounded thereby;

(c) A Class B felony if a shot is fired and a person other than the defendant or an accomplice of the defendant is wounded by the shot; and

(d) A Class A felony if a shot is fired and a person other than the defendant or an accomplice of the defendant is killed by the shot.

(3) The provisions of this section are intended to be a separate offense from the underlying crime, which shall be punished separately. If a person is convicted of this offense, his sentence shall be served consecutively to the sentence for the underlying offense.

(4) The provisions of this section shall not apply to any person who is justified in acting pursuant to the provisions of KRS Chapter 503.

SECTION 16. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby levied on each misdemeanor conviction, other than offenses under KRS Chapters 186 to 189A, a service fee of five dollars ($5.00) to be paid by the defendant in the case.

(2) The fee shall be paid to the circuit clerk and then to the State Treasurer in the same manner and at the same time other payments are made by the circuit clerk to the State Treasurer.

(3) The first three hundred thousand dollars ($300,000) collected during each fiscal year shall be paid by the State Treasurer to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act. Any funds collected in excess of three hundred thousand dollars ($300,000) shall be placed in the general fund of the State Treasury and be subject to appropriation only by the General Assembly.

The Senate Committee Amendment No. 1 to the Senate Committee Substitute to **HB 390** is as follows:

On page 10, line 11, following "(4)" to insert "*Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding,*"; and

On page 10, line 11, to delete "*Class C or Class D*", and

On page 10, line 12, to delete "*has on one (1) prior separate occasion been*", and to insert in lieu thereof: "*had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be tried in the Circuit Court as an adult offender and shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a secure detention facility for juveniles or for youthful offenders, unless released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be transferred to a facility operated by the Department of Corrections to serve any time remaining on his sentence.*"; and

On page 10, lines 13 to 17, to delete the same.

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 390**. Agreed.

Representative Stumbo moved that the House concur in the Senate Committee Amendment No. 1 to the Senate Committee Substitute to **HB 390**. Agreed.

Representative Stumbo moved that **HB 390**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 78, Nays 11. (See March 30, 1994 roll call on **HB 390** - Appendix)

HB 390, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 390**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 50, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Curd moved that the House recede from House Floor Amendment No. 1 to **SB 50**. Agreed.

Representative Curd moved that **SB 50** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 30, 1994, roll call on **SB 50** - Appendix)

Representative Curd moved that the vote by which **SB 50** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 258, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Brown moved that the House recede from House Floor Amendment No. 1 to **SB 258**. Agreed.

Representative Cyrus moved that **SB 258** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 30, 1994, roll call on **SB 258** - Appendix)

Representative Stumbo moved that the vote by which **SB 258** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 247, with House Committee Amendment and House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved that the House refuse to recede from House Committee Amendment No. 1 to **SB 247**. Agreed.

Representative Moberly moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 247**. Agreed.

SB 255 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Donnermeyer moved the adoption of the following Free Conference Committee Report on **SB 255**:

The Free Conference Committee on **SB 255** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of **SB 255** as amended by the House Committee Substitute and House Floor Amendment No. 1.

Signed: Representatives William Donnemeyer and Jim Callahan, and Senators Joseph Meyer and Rick Rand.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call to adopt the Free Conference Committee Report on **SB 255**, the vote was **Yeas 80**– Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Crenshaw, Curd, Cyrus, Damron, Deskins, Donnermeyer, Farley, Farrow, Fox, French, Gedling, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Heleringer, Jensen, Johnson, Lear, Lee, Lewis, Little, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Nesler, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Trapp, Treesh, Turner, Wayne, Yates, Zimmerman. **Nays 7**–Bruce, Gee, Keith, Kerr, Lindsay, Morris, Walton.

The Free Conference Committee Report on **SB 255** was adopted.

Representative Donnermeyer moved that **SB 255**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 79, Nays 8. (See March 30, 1994 roll call on **SB 255** - Appendix)

SB 255, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 255**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 51, with House Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved that the House refuse to recede from the House Committee Substitute to **SB 51**. Agreed.

HB 260, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 260** is as follows:

On page 2, line 22, after "***shall***", by inserting "***be staff to the Kentucky Recycling Brokerage Authority, which acts***", and by deleting "***act***"; and

On page 18, line 24, by removing the opening bracket; and

On page 18, by removing the strikethroughs on lines 24 to 27 in their entirety; and

On page 19, by removing the strikethroughs on lines 1 to 26 in their entirety; and

On page 19, line 27, by removing the strikethroughs and closing bracket from "~~(6)~~]"; and

On page 20, line 2, after "shall", by inserting "***assist the authority and***", and by inserting "***the***" after "as" and by bracketing and striking through "a"; and

On page 20, line 20, by deleting "***(2)***" and removing the brackets and strikethroughs from "[~~(7)~~]"; and

On page 20, line 24, by deleting "***(3)***" and removing the brackets and strikethroughs from "[~~(8)~~]"; and

On page 20, line 27, after "***division***", by inserting "***or the***", and by removing the brackets and strikethroughs from "[~~authority~~]"; and

On page 21, line 1, by deleting "***(4)***" and removing the brackets and strikethroughs from "[~~(9)~~]", and by deleting "***division***" and removing the brackets and strikethroughs from "[~~authority~~]"; and

On page 21, line 6, by deleting "***(5)***" and removing the brackets and strikethroughs from "[~~(10)~~]", and by deleting "***division***" and removing the brackets and strikethroughs from "[~~authority~~]"; and

On page 22, line 6, by deleting "***(6)***" and removing the brackets and strikethroughs from "[~~(11)~~]", and by deleting "***division***" and removing the brackets and strikethroughs from "[~~authority~~]"; and

On page 22, line 8, by deleting "***division***" and removing the brackets and strikethroughs from "[~~authority~~]".

Representative Stumbo moved that the House concur in Senate Committee Amendment No. 1 to **HB 260**. Agreed.

Representative Stumbo moved that **HB 260**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 30, 1994 roll call on **HB 260** - Appendix)

HB 260, as amended by the Senate, was passed and the title agreed to.

SB 256, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that Floor Amendment No. 3 to the Committee Substitute to **SB 256** be withdrawn. Agreed.

Representative Callahan moved the adoption of the Committee Substitute to **SB 256**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 256**.

On the roll call to adopt Floor Amendment No. 1 to the Committee Substitute to **SB 256** the vote was **Yeas 30**--Ackerson, Altman, Bryant, Buis, Cave, P. Clark, Collins, Damron, Ford, Gedling, Gee, Graham, Hampton, Hatcher, Heleringer, Johnson, Keith, Lewis, Lyne, Maricle, Mullinix, Napier, Reinhardt, Riner, Sanders, B. Smith, Todd, Turner, Worthington, Yates. **Nays 58**--Adams, Adkins, Allen, Arnold, Ballard, Bentley, Bondurant, Bowling, Burch, Butler, Callahan, L. Clark, Clarke, Coleman, Crenshaw, Curd, Cyrus, DeWeese, Donnermeyer, Farley, Farrow, Fox, French, Geveden, Gray, Harper, Kerr, Lear, Lee, LeMaster, Little, Long, Marzian, Mason, McElroy, Moberly, Morris, Nesler, Northup, Nunn, Palumbo, Rasche, Richards, Ridley, Riggs, Scorsone, Scott, Shacklette, Simpson, R. Smith, Stacy, Stengel, Stumbo, Trapp, Treesh, Walton, Wayne, Zimmerman.

Floor Amendment No. 1 to the Committee Substitute to **SB 256** was rejected.

Representative Callahan moved that **SB 256**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 63, Nays 31. (See March 30, 1994 roll call on **SB 256** - Appendix)

SB 256, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **SB 256**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 214, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Lewis moved that the House refuse to recede from House Floor Amendment No. 2 to **SB 214**. Agreed.

Representative Jensen moved the adoption of the following **Legislative Citation No. 167**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Raymond Overstreet. The entire membership joins Representatives Clarence Noland, Danny Ford, and Tom Jensen in recognizing and commending Raymond Overstreet, legal counsel for the 1994 General Assembly Republican Caucus, for his sharp legal mind, good nature, proficient skills and friendship. This illustrious body would like to extend its very best wishes on this memorable occasion.

Representative Jensen moved the adoption of the following **Legislative Citation No. 155**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Juder Stidham. The House of Representatives joins Representative Tom Jensen in expressing its deepest sympathy to The Stidham Family on the loss of your beloved family member. Juder Stidham shall be remembered as a dedicated family member, an outstanding educator, and a respected member of Laurel County.

Representative Jensen moved the adoption of the following **Legislative Citation No. 157**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in honor of Coleman Moberly. The House of Representatives joins Representative Tom Jensen in saluting Coleman Moberly for his outstanding accomplishments and public service to Laurel County. Coleman Moberly, while performing his duties as the Laurel County Attorney and as a former member of the House of Representatives, has served with outstanding dedication and perseverance.

Representative Lindsay moved the adoption of the following **Legislative Citation No. 163**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your efforts and offers its sincerest congratulations to the Henderson County High School Varsity Cheerleading Squad for becoming the 1994 Sweet Sixteen State Champions. Your achievements during your athletic career as varsity cheerleaders has been spectacular. Your spirit, precision, grace and poise brought a great deal of recognition and pride to Henderson County High School your school and your community. The House of Representatives joins with Representative Gross Lindsay in honoring you on your many achievements and wishes you every success as you further your academic and athletic careers.

Representative Brown moved the adoption of the following **Legislative Citation No. 154**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends and honors Greg Lawson in recognition of his Good Samaritan acts and lifestyle. While assisting an injured person at the scene of an accident, Greg Lawson was also critically injured by an oncoming vehicle. Mr. Lawson's actions exemplify the best and most sincere qualities of an outstanding citizen. The entire membership joins Representative Mark Brown and extends its very best wishes on this memorable occasion and expresses the hope for continued recovery and good fortune.

Representative Arnold moved the adoption of the following **Legislative Citation No. 176**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Donnie Gedling for extraordinary dedication to the legislative process and the good will and friendship said recipient so generously has given to his colleagues in the House of Representatives. Whereas, the gentleman from Breckinridge has in fact, been the staunch supporter and spokesman for Kentucky's hard working farmers and has particularly stood up for the stalwart tobacco farmer whose future is in critical jeopardy; and, this distinguished body doth hereby recognizes this champion of the underdog and extends every wish for a euphoric retirement and sends regrets to the University of Louisville that no longer will the Breckinridge gentleman be closely scrutinizing their budget.

Representative Ballard moved the adoption of the following **Legislative Citation No. 175**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Representative Dorsey Ridley for extraordinary dedication to the legislative process and the good will and friendship said recipient has so generously given to his colleagues in the House of Representatives. Let it be known to all who come forth that the gentleman from Webster is honored and esteemed among his peers for his quick wit and his remarkable savvy in using the political process to significantly improve the wonderful counties of Caldwell, Hopkins, McLean and Webster. This honorable body does salute the outstanding legislative service of the gentleman from Webster and extends best wishes for a blissful and successful retirement.

Representative Damron moved the adoption of the following **Legislative Citation No. 165**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Laura Everling, Legislative Intern. The entire membership joins with Representative Bob Damron in commending you on your professional manner, proficient skills, and dedicated services to the General Assembly. You have done a superb job while serving as his Legislative Intern during the 1994 Legislative Session and have been a true illustration of a devoted employee.

Representative Shacklette moved the adoption of the following **Legislative Citation No. 156**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Sarah Lydon, Legislative Intern.

The entire membership joins with Representative Donna Shacklette in commending you on your professional manner, dedicated service, proficient skills and for doing a superb job while serving as her Legislative Intern during the 1994 Legislative Session.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 141, SB 162, SB 168, SB 213, SB 270, SB 337** and **SB 351** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:15 p.m.)

Orders of the Day (Continued)

Representative Ridley moved the adoption of the following **Legislative Citation No. 171**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Elizabeth Mitchell. The entire membership joins Representative Dorsey Ridley in commending his Legislative Intern, Elizabeth Mitchell, for her proficiency, her professional manner in public relations and her energetic spirit during this 1994 Legislative Session. Elizabeth has truly learned the Legislative process while serving as Intern. This illustrious body would like to also extend its very best wishes on this memorable occasion and expresses the hope for continued success.

Representative Stumbo announced a Minority Caucus upon Recess.

The Speaker announced the appointment of the following members to Conference Committees:

HB 34--Representatives Wayne, Coleman, Harper, French

HB 67--Representatives Moberly, Lee, Bowling, Treesh

HB 250--Representatives Scorsone, L. Clark, Rapier, Richards, Nunn, DeWeese

HB 275--Representatives Lee, Little, Zimmerman

HB 282--Representatives Brown, Moberly, Lile

HB 301--Representatives Long, Clarke, L. Clark, Rapier, Richards, Noland

HB 302--Representatives Long, Clarke, L. Clark, Rapier, Richards, Noland

HB 455--Representatives Long, Clarke, L. Clark, Rapier, Richards, Noland

HB 510--Representatives Collins, Adkins, Bentley, Mullinix, B. Smith

HB 517--Representatives Barrows, Lee, Damron, Keith

HB 533--Representatives Curd, Moberly, Maricle

HB 639--Representatives Curd, Moberly, Little, Lindsay, Ridley, Napier

HB 741--Representatives Gray, Butler, Heleringer

HB 798--Representatives B. Smith, Riggs, Nunn, Lindsay

HB 851--Representatives Bentley, Hancock, Barrows, Noland

SB 51--Representatives Rapier, Moberly, Bentley, Scorsone, Heleringer

SB 119--Representatives Morris, Hancock, Coleman, Zimmerman

SB 162--Representatives Moberly, Curd, Lee

SB 171--Representatives Gray, Butler, Zimmerman

SB 214--Representatives Lyne, Deskins, Bentley, Ridley, Lewis, Maggard, Hampton

SB 222--Representative Simpson

SB 242--Representatives Curd, Rasche, Barrows, Keith, Coleman, Adams

SB 247--Representatives Moberly, Curd, Riner, Buis

SB 255--Representatives Donnermeyer, Callahan, Walton

SB 277--Representatives Stacy, Zimmerman, Lindsay

A Conference Committee Report was filed on **HB 282**.

The first person named to each conference committee was designated chair of the conference committee.

Representative Mullinix moved the adoption of the following **Legislative Citation No. 170**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to the 20th District Champions Adair County High School Boy's Basketball Team for conquering the 20th District Championship. Your achievements and contributions to the "Indians" basketball team have been spectacular. You have brought a great deal of pride and recognition to Adair County High School and your community. The House of Representatives joins with Representative Ray Mullinix in honoring you on your many achievements and wishes you every success as you further your academic and athletic careers.

Representative Mullinix moved the adoption of the following **Legislative Citation No. 168**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Sam McElroy for extraordinary dedication to the legislative process and the good will and friendship said recipient has so generously given to his colleagues in the House of Representatives; for inasmuch as ginseng is critically important to the citizens of our Commonwealth for a variety of reasons including re-vitalization of our youthful pursuits as well as the state economy and invisible soy ink is a boon to west Kentucky farmers as well as the gentleman from Union's legislative acclaim; this prestigious body does hereby ask for a roll call vote to repute the sterling qualities of the gentleman from Union and does hereby lament for the loss of that familiar laugh that doth now echoes throughout these hallowed halls.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

SB 262 returned with the following message: The Senate has concurred in the House Committee Substitute to **SB 262** but refused to concur in House Floor Amendment No. 2 and House Floor title Amendment to **SB 262** and respectfully returns it with the request that this Honorable Body recede from the Amendments. (Time: 7:00 p.m.)

Orders of the Day (Continued)

Representative Brown moved that the Conference Committee Report on **HB 282** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 282**.

The following member filed a request to have his name added as a co-sponsor to a Bill under the rules previously suspended: **HB 517**, Representative Farrow.

Representative Trapp moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Trapp moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Recess

Representative Stumbo moved that the House recess until 8:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The following changes have been made to the Conference Committee on:

SB 51--Representative Treesh replaced Representative Heleringer

SB 277--Representative Lear added

Representative Lewis moved that the rules be suspended to act upon a Conference Committee Report. Agreed.

Representative Lewis moved that the Conference Committee Report on **SB 214** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free

Conference Committee on **SB 214**.

Representative Barrows moved that the Conference Committee Report on **SB 242** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 242**.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 299, HB 388, HB 398, HB 402, HB 459, HB 483, HB 488, HB 513, HB 628, HB 712, HB 775, HB 810, HB 851, HB 864, HB 891, HB 898, HB 900** and **HB 913** have been examined and found correctly enrolled . Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -8:27 p.m.)

HB 299, HB 388, HB 398, HB 402, HB 459, HB 483, HB 488, HB 513, HB 628, HB 712, HB 775, HB 810, HB 851, HB 864, HB 891, HB 898, HB 900 and **HB 913** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 1994 at 8:55 p.m.

Senate Message

SB 81 returned with the following message: The Senate has concurred in House Committee Amendment No. 1 and House Floor Amendment No. 3 to **SB 81** but refused to concur in House Floor Amendment No. 1 to **SB 81** and respectfully returns it with the request that this Honorable recede from the House Floor Amendment No. 1.

SB 29 returned with the following message: The Senate has concurred in the House Committee Substitute to **SB 29** but refused to concur in the House Floor Amendment No. 1 to **SB 29** and respectfully returns it with the request that this Honorable Body recede from the Amendment.

SB 222 returned with the following message: The Senate has concurred in the House Committee Substitute to **SB 222** but refused to concur in House Floor Amendment No. 1 and respectfully returns it with the request that this Honorable Body recede from the Amendment.

SB 284 returned with the following message: The Senate has refused to concur in House Committee Amendment No. 1 and respectfully returns it with the request that this Honorable Body recede from the Amendment.

SB 308 returned with the following message: The Senate has refused to concur in the House Committee Substitute, House Floor Amendment No. 1 and House Floor Title Amendment to **SB 308** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendments.

SB 316 returned with the following message: The Senate has concurred in House Floor Amendment No. 1 and House Floor Amendment No. 5 to **SB 316** but refused to concur in House Floor Amendment No. 8 and respectfully returns it with the request that this Honorable Body recede from House Floor Amendment No. 8.

SB 348 returned with the following message: The Senate has refused to concur in House Floor Amendment No. 1 to **SB 348** and respectfully returns it with the request that this Honorable Body recede from the Amendment.

HB 639 returned with the following message: The Senate is returning **HB 639** for reconsideration.

HB 533 returned with the following message: The Senate has receded from Senate Committee Amendment No. 1 to **HB 533** and is respectfully returning same to this Honorable Body for enrollment.

HB 510 returned with the following message: The Senate has refused to recede from the Senate Committee Substitute to **HB 510** and is respectfully asking for a Conference Committee to be appointed.

SB 247 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 247**: Senators Neal, Ford and D. Williams.

SB 214 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 214**: Senators Kafoglis, Leeper and Huff.

SB 51 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 51**: Senators Ford, Neal and Casebier. (Time: 8:40 p.m.)

Representative Coleman moved that the rules be suspended to request that the Senate return **HB 34**. Agreed.

SB 262, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative R. Smith moved that the House recede in Floor Amendment No. 2 to **SB 262**. Agreed.

Representative Ballard moved that **SB 262** be passed.

On the roll call the vote was: Yeas 56, Nays 19. (See March 29, 1994 roll call on **SB 262** - Appendix)

SB 262 was passed and the title agreed to.

Representative Ballard moved that the vote by which **SB 262** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Lear inquired if **SB 262** must go back to the Senate and should the House recede from the Floor Title Amendment.

The Speaker ruled that it was not necessary for the House to recede from the Floor Title Amendment.

A Conference Committee Report was filed on **SB 214**.

SB 171, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Zimmerman moved that the House refuse to recede from the House Committee Substitute to **SB 171**. Agreed.

Representative Zimmerman moved that the House refuse to recede from House Floor Amendment No. 1 to the House Committee Substitute to **SB 171**. Agreed.

Representative Lindsay moved to reconsider the vote on House Committee Substitute to **SB 171**. Agreed.

Representative Zimmerman moved that the Conference Committee Report on **SB 171** requesting a Free Conference be adopted. Agreed.

Representative Zimmerman moved that the House refuse to recede from the House Committee Substitute to **SB 171**. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 171**.

SB 277, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the House refuse to recede from the House Committee Substitute and House Floor Amendment No. 1 to the House Committee Substitute to **SB 277**. Agreed.

SB 222, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the motion be withdrawn on **SB 222** and that it be returned to in the Orders of the Day. Agreed.

Senate Message

SB 119 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 119**: Senators J. Meyer, Rand and Preston.

SB 242 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 242**: Senators Ford, Neal and Casebier.

HB 282 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 282**: Senators Rand, Nelson and Borders.

Representative Morris moved that the Conference Committee Report on **SB 119** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 119**.

Representative Arnold moved that a Conference Committee be appointed on **SB 316**. Agreed.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **SB 316**:

Representatives Arnold, Graham, Gedling and Napier.

SB 222, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 222**. Agreed.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **SB 222**: Representatives Simpson, Kerr, Lile and Cave.

SB 81, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Damron moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 81**. Agreed.

Representative Damron moved that a Conference Committee be appointed on **SB 81**. Agreed.

SB 348, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Keith moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 348**. Agreed.

Representative Keith requested a Conference Committee be appointed.

The Speaker appointed the following members to serve on a Conference Committee on **SB 348**: Representatives Cyrus, Stacy, Adkins and Mullinix.

SB 316, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the House refuse to recede from Floor Amendment No. 8 to **SB 316**. Agreed.

The Speaker appointed the following members to serve on a Conference Committee on **SB 81**: Representatives Barrows, Damron, Lee and Keith.

Representative Stumbo moved that the Legislative Calendar be amended. Agreed.

Representative Stumbo moved that Friday, April 1, 1994 be used as a legislative day. Agreed.

Representative Stumbo moved that no further business be conducted on this day other than Conference Committee Reports, appointment of Conference and Free Conference Committees and Senate Messages. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., Friday, April 1, 1994. Agreed.

Recess

Representative Stumbo moved that the House recess until 10:00 p.m. Agreed.

At the appointed hour, the Speaker Pro Tempore assumed the Chair and called the House to order.

Senate Message

HB 34 returned with the following message: Upon request of the House of Representatives and adopted motion of the Senate, the Senate is hereby returning **HB 34** to this Honorable Body.

Recess

Representative Stumbo moved that the House recess . Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Conference Committee Report was filed on **SB 242**.

A Conference Committee Report was filed on **SB 247**.

Senate Message

SB 214 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 214**: Senators Kafoglis, Leeper and Huff.

SB 242 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 242**: Senators Ford, Neal and Casebier.

SB 247 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 247**: Senators Neal, Ford and D. Williams. (Time: 10:55 p.m.)

Representative Lindsay moved that the House stand at ease to await further messages. Agreed.

A Conference Committee Report was filed on **SB 51**.

Adjournment

Representative Lindsay moved that the House adjourn until 10:00 a.m., Friday, April 1, 1994.

The motion to adjourn was adopted by voice vote.

FRIDAY, APRIL 1, 1994

FIFTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Sandy Franklin, Christian Fellowship Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representative R. Smith.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 30, 1994 be dispensed with and the same approved. Agreed.

Representative Maggard moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Maggard moved that all properly filed co-sponsor requests be approved. Agreed.

A Conference Committee Report was filed on **HB 455**.

Senate Message

SB 51 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 51**: Senators Ford, Neal and Casebier.

SB 81 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 81**: Senators Boswell, J. Meyer and Huff.

SB 119 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 119**: Senators J. Meyer, Rand and Preston.

SB 316 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 316**: Senators Boswell, Leeper and Moore. (Time: 10:10 a.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 260, HB 312, HB 390** and **HB 533** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:09 a.m.)

HB 260, HB 312, HB 390 and **HB 533** delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1994 at 10:20 a.m.

Introduction of Bills and Resolutions

HR 122, by Representative Riner: A RESOLUTION supporting the request of Parents Demanding Quality Care that Gregory Nazar be allowed to continue his pediatric neurosurgical practice in Louisville and Jefferson County.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolution:

Health and Welfare: **HR 122**

Orders of the Day

A Free Conference Committee Report was filed on **SB 214**.

A Conference Committee Report was filed on **SB 81**.

Representative Stumbo moved that the rules be suspended to act upon Conference Committee Reports. Agreed.

SB 214 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Lewis moved the adoption of the following Free Conference Committee Report on **SB 214**. Agreed.

The Free Conference Committee on **SB 214** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA version of **SB 214** with the following amendment:

On page 5 after line 5 by adding the following:

"Section 6. KRS 211.390 is amended to read as follows:

(1) "Fluidized bed energy production facility" shall mean ***a fluidized bed combustion unit*** ~~[any facility or property]~~, ***installed in a plant facility*** located in this state, which is fueled by Kentucky coal and which employs fluidized bed combustion technology, installed on or after August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical or electrical energy. The energy produced through the employment of the ~~[atmospheric]~~fluidized bed combustion technology must constitute the major energy source for the primary operations of the ***plant*** facility.

(2) "Fluidized bed combustion technology tax exemption certificate" shall mean that certificate issued by the Revenue Cabinet pursuant to KRS 211.392.

Section 7. KRS 211.392 is amended to read as follows:

(1) Application for a fluidized bed combustion technology tax exemption certificate shall be filed with the Revenue Cabinet in the manner and form prescribed ~~[by regulations issued]~~ by the Revenue Cabinet and shall contain plans and specifications of the ***fluidized bed combustion unit*** ~~[structure]~~ including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of installing a fluidized bed combustion unit to reduce the sulfur emissions from coal combustion and any additional information deemed useful by the Revenue Cabinet for the proper administration of this section. ~~[The Governor's Office for Coal and Energy Policy shall provide technical assistance and factual information as requested in writing by the Revenue Cabinet.]~~ If the Revenue Cabinet finds that the facility qualifies as a fluidized bed energy production facility, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

(2) Before the ~~[issuance or]~~ denial***, revocation, or modification*** of a fluidized bed combustion technology tax exemption certificate, the Revenue Cabinet shall give ***the applicant written*** notice ~~[in writing by mail to the special assistant to the Governor for coal and energy policy]~~and shall afford ~~[to]~~the applicant ~~[and to the special assistant to the Governor for coal and energy policy]~~an opportunity for a ***conference*** ~~[hearing]~~. The ***conference*** ~~[hearing]~~shall take place within sixty (60) days following notification. ~~[The special assistant to the Governor for coal and energy policy along with the applicant shall be notified of the hearing at least two (2) weeks prior to the hearing. On like notice and opportunity for a hearing,]~~The Revenue Cabinet shall on its own initiative revoke the certificate when any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the fluidized bed combustion unit; or

(c) The ***fluidized combustion unit*** ~~[structure or equipment or both]~~to which the certificate relates has ceased to be ***the major energy source for the primary operations of the plant facility*** ~~[used for the primary purpose of generating energy]~~.

(3) If the circumstances so require, the Revenue Cabinet, in lieu of revoking the certificate, may modify it.

(4) On mailing of notice of the action of the Revenue Cabinet revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A fluidized bed combustion technology tax exemption certificate, when issued, shall be sent by certified mail to the applicant ~~[and the notice of the issuance in the form of certified copies thereof shall be sent to the special assistant to the Governor for coal and energy policy]~~. Notice of an order of the Revenue Cabinet denying, revoking, or modifying a certificate in the form of certified copies shall be sent by certified mail to the applicant or the holder ~~[and shall be sent to the special assistant to the Governor for coal and energy policy. The applicant or holder and the special assistant to the Governor for coal and energy policy shall be deemed parties for the purposes of the review afforded by subsection (6) of this section]~~.

(6) ***The applicant or holder of the certificate*** ~~[Any party]~~aggrieved by the ~~[issuance,]~~refusal to issue, revocation, or modification of a fluidized bed combustion technology tax exemption certificate may appeal from the final ruling of the Revenue Cabinet to the Kentucky Board of Tax Appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a fluidized bed combustion unit, not involving a different location or use, the holder of the fluidized bed construction technology tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facilities. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as the date of transfer, together with a copy of the instrument of transfer to the Revenue Cabinet.

(8) In the event a fluidized bed combustion unit for which an exemption certificate is held ceases to be used for the purpose of generating energy or is used for a purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to [~~the special assistant to the Governor for coal and energy policy and~~]the Revenue Cabinet.

(9) The fluidized bed combustion technology tax exemption certificate, upon approval, shall exempt the facilities from taxes outlined in the provision of this section and KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of *eight (8)* [~~five (5)~~]years from the date of issuance and at the end of said period shall lapse. Any fluidized bed combustion unit previously exempt under the terms of this section shall not be eligible for recertification upon completion of the *eight (8)* [~~five (5)~~]year certificate period."

Signed: Representatives Dorsey Ridley, June Lyne, Richard Lewis, Jim Maggard, and Elbert Hampton, and Senators Nick Kafoglis, Robert Leeper, and Gene Huff.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Lewis moved that **SB 214**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 84, Nays 6. (See April 1, 1994 roll call on **SB 214** - Appendix)

SB 214, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 214**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 34, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 34** is as follows:

On page 2, line 27, by deleting the bracket and strikethroughs; and

On page 3, line 1, by deleting the strikethroughs from the words "family dwelling"; and after "dwelling", by inserting the following:

"*located in a county in which there is no urban-county government or cities of the first through third class;*" and

On page 3, line 1, by deleting the strikethroughs from the word "except"; and after "except" by inserting "*that single family dwellings*"; and by inserting opening and closing brackets around "[~~those~~]"; and after "[~~those~~]" by deleting the strikethroughs from the words "sold or constructed under a trade or brand name.", and after "name" by inserting "*shall comply with this chapter*"; and

On page 3, by deleting the strikethroughs and bracket on lines 2 through 5; and

On page 3, line 6, by deleting "*(5)*" and removing the brackets and strikethroughs from "(6)"; and on line 9, by deleting "*(6)*" and removing the brackets and strikethroughs from "(7)"; and on line 26, by deleting "*(7)*" and removing the brackets and strikethroughs from "(8)"; and

On page 4, line 3, by deleting "*(8)*" and removing the brackets and strikethroughs from "(9)"; and on line 7, by deleting "*(9)*" and removing the brackets and strikethroughs from "(10)"; and on line 11, by deleting "*(10)*" and removing the brackets and strikethroughs from "(11)"; and on line 13 by deleting "*(11)*"; and removing the brackets and strikethroughs from "(12)"; and on line 16, by deleting "*(12)*" and removing the brackets and strikethroughs from "(13)"; and on line 17, by deleting "*(13)*" and removing the brackets and strikethroughs from "(14)"; and

On page 5, line 3, by deleting "*(14)*" and removing the brackets and strikethroughs from "(15)"; and on line 6, by deleting "*(15)*" and removing the brackets and strikethroughs from "(16)"; and on line 25, by deleting "*(16)*" and removing the brackets and strikethroughs from "(17)"; and

On page 6, line 17 by deleting "*(17)*" and removing the brackets and strikethroughs from "(18)"; and on line 20, by deleting *(18)*" and removing the brackets and strikethroughs from "(19)"; and

On page 7, line 9, by deleting "*(19)*" and removing the brackets and strikethroughs from "(20)"; and on line 10, by deleting "*(20)*" and removing the brackets and strikethroughs from "(21)"; and on line 20, by deleting "*(21)*" and removing the brackets and strikethroughs from "(22)"; and on line 22, by deleting "*(22)*" and removing the brackets and strikethroughs from "(23)"; and

On page 8, line 3, by deleting "*(23)*" and removing the brackets and strikethroughs from "(24)"; and

On page 8, line 8, by deleting "*198B.010(11)*"; and on line 9, by deleting the brackets and strikethroughs from "198B.010(12)".

Representative Wayne moved that the House concur in Senate Committee Amendment No. 1 to **HB 34**.

On the roll call to concur with Senate Committee Amendment No. 1 to **HB 34**, the vote was **Yeas 44**--Adams, Arnold, Barrows, Brown, Bruce, Butler, Callahan, Cave, L. Clark, Coleman, Cyrus, Damron, Donnermeyer, Farrow, French, Geveden, Graham, Gray, Hancock, Harper, Johnson, Kerr, Lee, LeMaster, Little, Long, Marzian, McElroy, Morris, Nesler, Northup, Palumbo, Rapier, Rasche, Reinhardt, Richards, Riggs, Scorsone, Shacklette, Simpson, Stengel, Treesh, Wayne, Worthington. **Nays 40**--Adkins, Allen, Altman, Ballard, Bentley, Bondurant, Bowling, Bryant, Buis, Burch, Collins, Curd, Deskins, DeWeese, Farley, Ford, Fox, Gedling, Gee, Hampton, Heleringer, Jensen, Keith, Lindsay, Maggard, Maricle, Mason, Moberly, Mullinix, Napier, Nelson, Noland, Nunn, Ridley, Sanders, B. Smith, Stacy, Todd, Turner, Zimmerman.

The motion that the House concur in Senate Committee Amendment No. 1 to **HB 34** was adopted.

Representative Wayne moved that **HB 34**, as amended by the Senate, be passed.

Representative Gedling moved that **HB 34** be laid on the Clerk's Desk.

On the roll call to lay **HB 34** on the Clerk's Desk, the vote was **Yeas 43**--Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Bentley, Bondurant, Bryant, Buis, L. Clark, Collins, Curd, Deskins, DeWeese, Farley, Ford, Fox, Gedling, Gee, Hampton, Jensen, Keith, Lindsay, Little, Lyne, Maggard, Maricle, Mullinix, Napier, Nelson, Noland, Nunn, Ridley, Sanders, Stacy, Stumbo, Todd, Treesh, Turner, Walton, Worthington, Zimmerman. **Nays 49**--Adams, Barrows, Brown, Bruce, Burch, Butler, Callahan, Cave, Clarke, Coleman, Crenshaw, Cyrus, Damron, Donnermeyer, Farrow, French, Geveden, Graham, Gray, Hancock, Harper, Hatcher, Johnson, Kerr, Lear, Lee, LeMaster, Lewis, Long, Marzian, Mason, McElroy, Moberly, Morris, Nesler, Northup, Palumbo, Rapier, Rasche, Reinhardt, Richards, Riggs, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stengel, Wayne.

The motion that **HB 34** be laid on the Clerk's Desk was rejected.

Representative Wayne moved that **HB 34**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 44, Nays 46. (See April 1, 1994 roll call on **HB 34** - Appendix)

HB 34, as amended by the Senate, was defeated.

Representative Ford moved that the vote by which **HB 34**, as amended by the Senate, was defeated by reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 1, SB 50, SB 195, SB 258, SB 278,** and **SB 287** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:32 a.m.)

Orders of the Day (Continued)

A Free Conference Committee Report was filed on **SB 242**.

Representative Arnold moved that the Conference Committee Report on **SB 316** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 316**: Representatives Arnold, Graham, Gedling and Napier.

HB 639, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 639** is as follows:

On page 4, line 21, after the semicolon ";" by removing the opening bracket "[" and closing bracket "]" from the word "and" and by removing the strikethroughs from the word "and"; and

On page 4, line 25, after the word "Regulation" delete "***; and***"; and

On page 4, lines 26 and 27, by deleting lines 26 and 27 in their entirety; and

On page 5, lines 1 through 9, by deleting lines 1 through 9 in their entirety; and

On page 5, line 10, by deleting "***insurance to the county clerk***"; and

On page 6, beginning on line 22 and continuing through page 9, line 14, remove "Section 4" from the bill.

Representative Curd moved that the House concur in Senate Floor Amendment No. 1 to **HB 639**. Agreed.

Representative Curd moved that **HB 639**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See April 1, 1994 roll call on **HB 639** - Appendix)

HB 639, as amended by the Senate, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 639**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 29, with House Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Geveden moved that the House refuse to recede from House Floor Amendment No. 1 to **SB 29**. Agreed.

The Speaker appointed the following members to serve on a Conference Committee on **SB 29**: Representatives Geveden, Lewis and Scorsone.

SB 308, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative B. Smith moved that the House refuse to recede from the House Committee Substitute, House Floor Amendment No. 1 and House Floor Title Amendment to **SB 308**. Agreed.

SB 284, with House Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Cyrus moved that the House recede from House Committee Amendment No. 1 to **SB 284**. Agreed.

Representative Cyrus moved that **SB 284** be passed.

On the roll call the vote was: Yeas 82, Nays 0. (See April 1, 1994, roll call on **SB 284** - Appendix)

SB 284 was passed and the title agreed to.

A Free Conference Committee Report was filed on **HB 282**.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

Representative Brown moved the adoption of the following Free Conference Committee Report on **HB 282**. Agreed.

The Free Conference Committee on **HB 282** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 282** with the following amendment:

On page 10, after line 20, by deleting the text on lines 21 to 27; and

On page 11, lines 1 to 13, by deleting all the text thereon; and

On line 14, after "***On***" by inserting "***the effective date of this Act***" and by deleting "***or before March 1, 1996***"; and

On line 17, after "***cabinet***" by deleting "***to determine compliance with Sections 2 to 6 of this Act***"; and

On lines 18 and 19, by deleting all the text thereon; and

On line 22, after the first "***designee;***" by inserting "***the chairman of the Kentucky Recycling Brokerage Authority or a designee;***"; and

On line 23, after "***and***" by inserting "***five (5)***" and deleting "***six (6)***"; and

On line 27, after "***initial***" by inserting "***five (5)***" and deleting "***six (6)***"; and

On page 12, line 1, after "***of***" by inserting "***two (2)***" and deleting "***three (3)***"; and

On line 25, after "***to the***" by inserting "***Interim Joint Committee on Agriculture and Natural Resources***", and deleting "***General Assembly***"; and

On line 26, before "***, on the***" by inserting "***October 1, 1995***", and deleting "***July 15, 2003***"; and

On line 27, after "***more***" by inserting "***, or any other information or recommendations deemed appropriate***"; and

On page 13, lines 1 to 25, by deleting all the text thereon.

Signed: Representatives Mark Brown, Bill Lile, and Harry Moberly, Jr., and Senators Rick Rand, Kim L. Nelson, and Charles Borders.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Brown moved that **HB 282**, as amended by the Free Conference Committee Report, be passed.

Representative Brown moved that the motion that **HB 282**, as amended by the Free Conference Committee Report, be passed be withdrawn since the bill was not in the House's possession. Agreed.

The Speaker appointed the following members to serve on a Conference Committee on **SB 308**: Representatives B. Smith, Coleman, Nunn and Altman.

Senate Message (Continued)

SB 81 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 81**: Senators Boswell, J. Meyer and Huff.

SB 316 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 316**: Senators Boswell, Leeper and Moore.

SB 171 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 171**: Senators Leeper, Green and Casebier.

SB 222 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 222**: Senators Neal, Bradley and G. Williams.

SB 277 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 277**: Senators J. Meyer, Rand and Buford.

SB 348 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 348**: Senators Blevins, J. Meyer and Rogers. (Time: 11:10 a.m.)

Orders of the Day (Continued)

Representative Ford moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 188**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Tula Prewitt in recognition of her birthday on April 2, 1994 for your kindness and consideration to the Republicans, Democrats, and State Police. Your political mediation skills are unsurpassed, and you have become famous during this 1994 Legislative Session for your delicious homemade pimento cheese sandwiches, mouth watering down home beans and cornbread, and other tasty recipes. This illustrious body joins Representative Danny Ford, your colleagues and dearest friends in wishing you a very special birthday.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 242 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Curd moved the adoption of the following Free Conference Committee Report on **SB 242**. Agreed.

The Free Conference Committee on **SB 242** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 242** with the following amendment:

By deleting lines 1 to 22 in their entirety and inserting the following:

"Section 1. (1) Notwithstanding any statute or administrative regulation to the contrary, a local board of education may extend each school day as set by the board for the 1993-94 school year by one (1) hour and twelve (12) minutes for five (5) days to make up a school day missed due to the severe winter weather. A local board of education may authorize no more than five (5) school days to be made up in this manner. This subsection shall apply only to the 1993-94 school year and to school districts which have missed at least ten (10) school days due to the severe winter weather.

(2) A local board of education continues to be authorized to exercise one (1) or more of the following options to make up a school day missed due to the severe winter weather:

(a) Conduct classes on Saturday;

(b) Shorten or eliminate spring break;

(c) Extend the school year;

(d) Conduct classes on remaining holidays; and

(e) Amend the school calendar to take a holiday not previously used, such as conducting school on May 30 (Memorial Day) or April 1 (Good Friday) and recognize Martin Luther King Day as a holiday.

Section 2. Notwithstanding any statute or administrative regulation to the contrary, a local board of education shall determine whether to make up January 18, 19, 20, or 21, 1994, pursuant to the Governor's Executive Order 94-54 closing the district employees shall be paid their regular daily salary for these four (4) days, and payments made by the board of education under the authority of this section are deemed to be for services rendered and for the benefit of the common schools. If a local board decides to make up these days, school district employees shall not earn salary in addition to that provided by their contract for the school year.

Section 3. Notwithstanding any statute or administrative regulation to the contrary, the Department of Education, in calculating the average daily attendance for the 1993-1994 school year as defined by KRS 157.320, shall exclude the attendance for up to five (5) days from the calculation if the local board submits its request to the Department by June 15, 1994, with documentation that the low attendance on those days was due to weather conditions and the State Board for Elementary and Secondary Education approves the request.

Section 4. Whereas many schools in the Commonwealth were forced by the recent severe winter weather to be closed for numerous days, and local boards of education need flexibility to make up the lost instructional time before the end of the current school year, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Signed: Representatives Freed Curd, Stephen Keith, Jack Coleman, Royce Adams, Frank Rasche, and Joe Barrows, and Senators Ed Ford and Gerald Neal.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Curd moved that **SB 242**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See April 1, 1994 roll call on **SB 242** - Appendix)

SB 242, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Curd moved that the vote by which **SB 242**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Conference Committee Report. Agreed.

Representative Morris moved that the Conference Committee Report on **SB 119** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 119**: Representatives Morris, Coleman, Hancock and Zimmerman.

Representative Stengel moved that the Conference Committee Report on **SB 222** be adopted.

Representative Stengel moved that the motion that the Conference Committee Report on **SB 222** be adopted be withdrawn. Agreed.

Representative Zimmerman moved that the Conference Committee Report on **SB 171** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 171**: Representatives Gray, Butler and Zimmerman.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

Representative Long moved the adoption of the following Free Conference Committee Report on **HB 455**.

The Free Conference Committee on **HB 455** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 455** with Senate Floor Amendment No. 2.

Signed: Representatives Marshall Long, Clarence Noland, Jr., Kenny Rapier, Joe Clarke, Jody Richards, and Larry Clark, and Senators Michael Moloney, Walter Baker, Charles Berger, John A. "Eck" Rose, Dan Kelly, and David K. Karem.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call to adopt the Free Conference Committee Report on **HB 455**, the vote was **Yeas 63**--Allen, Altman, Arnold, Ballard, Barrows, Bondurant, Brown, Bryant, Buis, Callahan, Cave, Clarke, Coleman, Crenshaw, Curd, Damron, DeWeese, Farley, Farrow, Ford, Geveden, Graham, Hampton, Hancock, Hatcher, Heleringer, Jensen, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Long, Lyne, Maricle, McElroy, Moberly, Napier, Nelson, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Scorsone, Scott, Simpson, B. Smith, Stengel, Todd, Trapp, Treesh, Turner, Wayne, Zimmerman. **Nays 28**--Ackerson, Adams, Adkins, Bentley, Bowling, Butler, L. Clark, P. Clark, Collins, Cyrus, Deskins, Donnermeyer, Fox, French, Gedling, Gray, Johnson, Little, Maggard, Marzian, Mason, Morris, Mullinix, Nesler, Shacklette, Stacy, Stumbo, Yates.

The Free Conference Committee Report on **HB 455** was adopted.

Representative Long moved that the vote by which **HB** 455, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker ruled that the motion that **HB 455**, as amended by the Free Conference Committee Report, was out of order since the bill was not in the House's possession. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 119 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Morris moved the adoption of the following Free Conference Committee Report on **SB 119**. Agreed.

The Free Conference Committee on **SB 119** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 119** with the following amendment:

On page 42, after line 1, by inserting the following:

"Section 35. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, ***an eligible's score shall expire automatically one (1) year from the date of testing***[~~eligibility lists shall expire automatically at the end of two (2) years~~], unless the life of ***the score***[~~a list~~] is extended by action of the commissioner for a period not to exceed one (1) additional year***. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established***;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, ~~[and]~~ employee relations***, and employee mobility;*** and

(l) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 36. KRS 6.905 is amended to read as follows:

(1) There is hereby created a Legislative Program Review and Investigations Committee which shall be a permanent standing committee of the General Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be appointed by the President Pro Tempore and two (2) of whom shall be appointed by the Minority Leader of the Senate, and eight (8) members of the House of Representatives, six (6) of whom shall be appointed by the Speaker and two (2) of whom shall be appointed by the Minority Leader of the House of Representatives. At least one (1) appointee by each appointive authority shall be a member of the Senate or House Standing Committee on Appropriations and Revenue. The appointments shall be made within seven (7) legislative days of the ***end*** ~~[beginning]~~ of each regular session of the General Assembly, and the members so appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. Vacancies shall be filled within sixty (60) days of occurrence in the same manner as the original appointments, and for the balance of the term of the vacated member.

(2) The committee shall select a chairman, ***cochairman***~~[vice chairman]~~, and other officers as it may deem necessary from among its membership. The chairman and ***cochairman***~~[vice chairman]~~ shall be from different chambers of the General Assembly and shall serve a term of two (2) years; the chamber of origin for the chairman and ***cochairman***~~[vice chairman]~~ shall alternate between the House of Representatives and the Senate. Officers shall be selected at the first meeting of the committee following the end of the regular session. A majority of the membership shall constitute a quorum and all actions authorizing a study, dropping a study, or adopting a final report on any subject under study shall require the affirmative vote of a majority of the full committee membership. All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee.

(3) When a study is instituted, the committee shall request that the Legislative Research Commission appoint the chairman and a ranking minority member, or their designees, of the committee of relevant jurisdiction to serve as nonvoting ex officio members of the committee in activities related to the relevant study. If the legislative committee that requested the study is a standing committee of one (1) of the houses of the General Assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the study is an interim joint committee of the Legislative Research Commission, the ranking minority member shall be:

(a) A minority party member of the House of Representatives appointed by the House Minority Leader, if the chairman of the interim joint committee is a member of the Senate; or

(b) A minority party member of the Senate appointed by the Senate Minority Leader, if the chairman of the interim joint committee is a member of the House of Representatives.

(4) Each regular and nonvoting ex-officio member of the committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the Legislative Research Commission under KRS 7.090(2).

Section 37. KRS 6.915 is amended to read as follows:

(1) Employees of state agencies shall provide the committee ***or its staff*** with necessary information for the performance of its duties, with any assistance needed to properly conduct the research or study, and with timely access in order to conduct the following functions, necessary to conduct any duly authorized study:

(a) Reviewing, copying, or inspecting any public or confidential information ***either written or electronic;***

(b) Interviewing personnel; and

(c) Inspecting or observing facilities, equipment, or operations.

(2) Adequate facilities shall be provided for on-site research at the agency. ***Open*** ~~[Timely]~~ access to ***original*** agency records and data shall be provided during normal working hours, without any restrictions or conditions imposed by the agency, and at the time and in the form requested by the committee or its staff.

(3) The contents of interviews with agency personnel conducted by the committee or its staff or information supplied at the request of the committee or its staff, which is not specifically restricted under KRS 61.878, may be classified as confidential by the public agency and not subject to release under KRS 61.872. This subsection does not apply to reports or documents routinely maintained by the agency and subject to release under KRS 61.872.

(4) Employees of state agencies or programs shall cooperate with the committee or its staff and shall not withhold, destroy, or alter any documents or information requested or given to the committee or its staff.

(5) No state agency or employee may interfere with any person complying with this section or take any punitive, administrative, or retaliatory action against a person for complying with this section.

Section 38. KRS 6.930 is amended to read as follows:

(1) In any instance in which a study conducted by or for the committee cites inadequate operating or administrative systems controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the committee shall report such deficiencies and its recommendations for their correction to the head of the state agency or program ***and the secretary of the cabinet*** to which the report pertains.

(2) The ***secretary of the cabinet and the*** head of the state agency or program to which the report pertains shall give affirmative consideration to the report ***within sixty (60) days of the adoption of the report*** by:

- (a) Adopting the committee's recommendations and reporting ***their actions*** [~~his action~~] to the committee; or
- (b) Otherwise correcting the deficiency and reporting ***their actions*** [~~his action~~], and the reasons for not adopting the committee's recommendations, to the committee.

(3) If no corrective action is taken ***by the secretary of the cabinet or*** by the head of ***the***[~~a~~] state agency or program in response to a committee report under subsections (1) and (2) of this section, or if the committee deems the corrective action taken to be unsuitable, the committee shall report the matter to the General Assembly, together with its recommendations.

(4) The committee shall report the results of each of its studies, including the committee's recommendations for any further action, to the General Assembly.

Section 39. KRS 6.935 is amended to read as follows:

(1) The Attorney General, or an assistant attorney general designated by him, [~~and~~] the Auditor of Public Accounts***, cabinet secretaries, and the heads of other state agencies*** shall assist the Legislative Program Review and Investigations Committee in whatever manner the committee deems that ***these officials*** [~~such officers~~] can be helpful.

(2) Staffing and support services shall be provided the Legislative Program Review and Investigations Committee pursuant to KRS 7.090."

Signed: Representatives Ramsey Morris, Jack Coleman, Jim Zimmerman, and C. M. "Hank" Hancock, and Senators Joseph U. Meyer and Rick Rand.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Morris moved that **SB 119**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See April 1, 1994 roll call on **SB 119** - Appendix)

SB 119, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 119**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed on **SB 277**.

Representative Turner moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Turner moved the adoption of the following **Legislative Citation No. 178**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Earl Carter. The House of Representatives joins Representative Richard Turner in expressing its deepest sympathy to The Carter Family.

Representative Deskins moved the adoption of the following **Legislative Citation No. 182**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Kathline Hammond for superb professional contribution during the 1994 General Assembly. For inasmuch as legislative interns are a unique group of the finest Kentucky students; and whereas the legislative interns are indispensable to legislators during the hectic schedule of the legislative session; this honorable body does hereby extol the exceptional abilities and the keen intellect of said recipient and extends best wishes for continued academic successes.

Representative Bentley moved the adoption of the following **Legislative Citation No. 180**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Margaret Dowell for superb professional contribution during the 1994 General Assembly. For inasmuch as legislative interns are a unique group of the finest Kentucky students; and whereas the legislative interns are indispensable to legislators during the hectic schedule of the legislative session; this honorable body does hereby extol the exceptional abilities and the keen intellect of said recipient and extends best wishes for continued academic successes.

Representative Lindsay moved the adoption of the following **Legislative Citation No. 174**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Representative Richard Lewis for extraordinary dedication to the legislative process and the good will and friendship said recipient has so generously given to his colleagues in the House of Representatives. For inasmuch as the gentleman from Marshall is honored and esteemed among his peers for his remarkable political savvy and the extraordinary experience he has accrued during his impressive tenure in Frankfort; therefore, this prestigious body does salute the integrity of this phenomenal gentleman and extends best wishes for a successful and productive retirement.

On the roll call to show co-sponsors on **Legislative Citation No. 174**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lile, Lindsay, Little, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman.

Representative Palumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 160**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Bill Lear for exceptional and fundamental service to the members of the House of Representatives and the people of this great Commonwealth of Kentucky. This eminent body does reluctantly bid farewell to the distinguished Representative Bill Lear who in retirement from said body leaves an impeccable record; respected by all.

A Conference Committee Report was filed on **SB 222**.

Representative B. Smith moved the adoption of the following **Legislative Citation No. 172**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Paul Clark for extraordinary dedication to the legislative process and the good will and friendship said recipient so generously has given to his colleagues in the House of Representatives. Whereas the gentleman in red has always been skilled in performing his chairmanship duties of Elections and Constitutional Amendments also acting as the supreme arbitrator; and whereas the gentleman in red has been American car manufacturer's greatest champion (especially those Ford products); therefore, this prestigious body does hereby applaud the exceptional allegiance said recipient has maintained for the working man and the democratic spirit.

On the roll call to show co-sponsors on **Legislative Citation No. 172**--Ackerson, Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Bryant, Buis, Burch, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Hancock, Harper, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Lindsay, Little, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Nesler, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 928** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -12:08 p.m.)

HB 928 delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1994 at 1:55 p.m.

Orders of the Day (Continued)

Representative Gray moved the adoption of the following **Legislative Citation No. 173**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Jim Yates for extraordinary dedication to the legislative process and the good will and friendship said recipient so generously has given to his colleagues in the House of Representatives. For inasmuch as the gentleman from Shively has spent the past twenty-two years providing phenomenal service to the good and honest people of the forty-fourth legislative House District, this prestigious body doth both admire and respect said individual for the splendid virtues that is associated with his legislative years and his chairmanship of the House Committee on Business Organization and Professions.

Representative Todd moved the adoption of the following **Legislative Citation No. 191**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Representative Jon Reinhardt in recognition of his birthday April 1st, 1994. The entire membership joins Representative Tommy Todd in wishing the refined gentleman from Campbell 69, a very special birthday.

Representative Hancock moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Hancock moved the adoption of the following **Legislative Citation No. 193**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Georgia Parrish in recognition of her 104 Birthday April 3rd, 1994. The entire membership joins Representative C. M. "Hank" Hancock in celebration of your birthday. We would like to also extend our most sincere wishes for peace and happiness.

Representative Hancock moved the adoption of the following **Legislative Citation No. 146**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Beth Crossman in recognition of her retirement from the Legislative Research Commission. The entire membership joins Representative C. M. "Hank Hancock in expressing our gratitude to Beth Crossman for the proficiency, energy and sense of humor she has displayed while working for the Legislative Research Commission as administrative assistant to Naomi Kitchen in the Legislative Support Services area. This prestigious body would like to also extend our very best wishes for her retirement.

Representative Geveden moved the adoption of the following **Legislative Citation No. 190**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Pastor Charles Blair for your devotion to God's work and his people while serving as director of missions for West Kentucky Baptist Association, in Clinton, Kentucky. This eminent body joins Representative Charles Geveden in commending you on your work and wishing you every success as you walk with God.

Representative Noland moved the adoption of the following **Legislative Citation No. 192**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Lawrence Parrish in recognition of his 87th Birthday April 1, 1994. The entire membership joins Representative Clarence Noland in celebration of your birthday, and in extending our most sincere wishes for many more to come.

Representative Trapp moved the adoption of the following **Legislative Citation No. 184**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to Paul Laurence Dunbar's Varsity Cheerleading Squad for the skillful and enthusiastic performance as a team member of the 1993-94 Varsity Cheerleading Squad that motivated the Varsity Bulldogs to a runners-up victory in the State Men's Basketball Tournament. For inasmuch as ardent and extraordinary talent are not only skills to benefit the academic and cheerleading challenges of tomorrow but will provide the necessary characteristics desirable in the leaders of the twenty first century; the tenacity and exemplary effort made by the Dunbar Varsity Cheerleading Squad is commended by this honorable body and it applauds the winning individuals for their dedication.

Representative Trapp moved the adoption of the following **Legislative Citation No. 185**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to Paul Lawrence Dunbar Men's Varsity Basketball Team for earning second place distinction in the Kentucky Men's Basketball Tournament. Whereas, a Bulldog's champion spirit and a steadfast heart are necessary attributes to aid one in conquering the unknown barriers of the twenty first century as well as the challenges of tomorrow; and whereas, the enthusiasm and extraordinary athletic talent demonstrated in this championship accomplishment are not only skills to utilize today but also in the roles assumed in future endeavors. The tenacity and exemplary effort made by the honorable recipient is recognized by this prestigious body and it extends best wishes for continued successes.

Representative Trapp moved the adoption of the following **Legislative Citation No. 186**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to Paul Laurence Dunbar Men's Varsity Basketball Coaching Staff for the outstanding support and guidance provided to the 1993-94 Paul Laurence Dunbar's Men's Basketball Team. For the commitment to the sterling qualities of competitive spirit and team substantiveness have resulted in exceptional recognition for Paul Laurence Dunbar High School and members of the Bulldogs Basketball Team. This prestigious body recognizes the exemplary managing abilities of the Dunbar men's Basketball coaching machine and extends its best wishes for continued success in future endeavors.

Representative Trapp moved the adoption of the following **Legislative Citation No. 187**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to The Paul Laurence Dunbar High School Marching Band Members whose enthusiasm and talent have been recognized as a mainstay of the phenomenal winning abilities that the group exhibited during the 1993-94 State Basketball Tournament. This honorable body applauds those musical gifts and encourages an ongoing outpouring of this outstanding performance, admirable qualities throughout a lifetime of endeavors.

Representative Stumbo moved that the Conference Committee Report on **SB 247** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 247**:

Representatives Moberly, Curd, Riner and Buis.

Representative Stumbo moved that the Conference Committee Report on **SB 51** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 51**: Representatives Rapier, Moberly, Bentley, Scorsone and Treesh.

Representative Johnson moved that the Conference Committee Report on **SB 81** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 81**: Representatives Barrows, Damron, Lee and Keith.

Representative Stumbo moved that the Conference Committee Report on **SB 277** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 277**: Representatives Stacy, Zimmerman, Lindsay and Lear.

A Minority Caucus was announced for 1:30 p.m. in Room 125.

A Free Conference Committee Report was filed on **SB 81**.

A Minority Free Conference Committee Report was filed on **SB 81**.

Recess

Representative Stumbo moved that the House recess until 2:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Majority Free Conference Committee Report and a Minority Free Conference Committee Report was filed on **SB 51**.

Representative Maggard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **SB 242**. Agreed.

Representative Noland moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noland moved that he be recorded as voting "nay" on **SB 262**. Agreed.

Representative Noland moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noland moved that he be recorded as voting "yea" on **SB 256**. Agreed.

Representative Noland moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noland moved that he be recorded as voting "yea" on **SB 255**. Agreed.

Senate Message (Continued)

Announcing passage of **SCR 133.**

HB 741 returned with the following message: The Senate has receded from Senate Floor Amendment No. 1 to **HB 741** and is respectfully returning same to this Honorable Body for enrollment.

HB 798 returned with the following message: The Senate has receded from Senate Floor Amendment No. 1 and is respectfully returning same to this Honorable Body for enrollment.

SB 29 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 29**: Senators Leeper, Lackey and Buford.

SB 51 returned with the following message: The Senate has replaced the following member to serve on a Free Conference Committee to **SB 51**: Senator J. Meyer will replace Senator Ford.

SB 171 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 171**: Senators Leeper, Green and Casebier.

SB 222 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 222**: Senators Neal, Bradley and G. Williams.

SB 247 returned with the following message: The Senate has replaced the following member to serve on a Free Conference Committee to **SB 247**: Senator J. Meyer will replace Senator Ford.

SB 277 with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 277**: Senators J. Meyer, Rand and Buford.

HB 67 returned with the following message: The Senate has refused to recede from Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 to **HB 67** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators J. Meyer, Johns and Casebier.

HB 207 returned with the following message: The Senate has refused to recede from the Senate Committee Substitute to **HB 207** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Bailey, Pendleton and Roeding.

HB 250 returned with the following message: The Senate has refused to recede from the Senate Committee Substitute and all Senate Amendments to **HB 250** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Kafoglis, Moloney and Buford.

HB 301 returned with the following message: The Senate has refused to recede from Senate Committee Substitute to **HB 301** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Moloney, Rose and Kelly.

HB 517 returned with the following message: The Senate has refused to recede from its Senate Amendment No. 1 to **HB 517** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators J. Meyer, Saunders and Huff. (Time: 2:35 p.m.)

A Free Conference Committee Report was filed on **SB 316**.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 639** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:33 p.m.)

HB 639 delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1994 at 2:40 p.m.

Orders of the Day (Continued)

A Free Conference Committee Report was filed on **SB 277**.

A Conference Committee Report was filed on **SB 29**.

A Conference Committee Report was filed on **SB 348**.

SB 171 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Zimmerman moved that the House refuse to adopt the following Free Conference Committee Report on **SB 171**. Agreed.

The Speaker appointed the following members to serve on the Free Conference Committee No. 2 to **SB 171**: Representatives Gray, Butler and Zimmerman.

A Free Conference Committee Report was filed on **HB 302**.

Senate Message (Continued)

HB 282 returned with the following message: The Senate has adopted the Free conference Committee Report on **HB 282** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

HB 455 returned with the following message: The Senate has adopted the Free Conference Committee Report on **HB 455** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

SB 308 returned with the following message: The Senate has appointed the following members to serve on a Conference Committee to **SB 308**: Senators Shaughnessy, Smith and Buford. (Time: 2:50 p.m.)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 277 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Lear moved the adoption of the following Free Conference Committee Report on **SB 277**. Agreed.

The Free Conference Committee on **SB 277** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 277** with the following amendment:

On page 54, by deleting lines 19 to 27; and

On page 55, by deleting lines 1 to 9; and

On page 55, line 10, by changing "44" to "43"; and

On page 58, line 21, by changing "45" to "44"; and

On page 59, line 25, by changing "46" to "45"; and

On page 62, line 12, by changing "47" to "46"; and

On page 63, by inserting the following between lines 25 and 26:

"SECTION 47. SUBCHAPTER 35 OF KRS CHAPTER 154 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Science and Technology Council, Inc., is authorized to establish the Kentucky Research and Development Infrastructure in accordance with guidelines developed and adopted by the Cabinet for Economic Development and the council. The infrastructure, subject to qualification by the contracting universities in accordance with agreements between the council and the universities, shall consist of up to two (2) basic research centers and up to six (6) applied research centers located as follows:

(a) A basic research center under contract with the University of Kentucky;

(b) A basic research center under contract with the University of Louisville;

(c) An applied research center to serve the central Kentucky area under contract with the University of Kentucky and Eastern Kentucky University;

(d) An applied research center to serve the west central Kentucky area under contract with the University of Louisville and Kentucky State University;

(e) An applied research center to serve the eastern Kentucky area under contract with Morehead State University;

(f) An applied research center to serve the western Kentucky area under contract with Western Kentucky University;

(g) An applied research center to serve the far western Kentucky area under contract with Murray State University; and

(h) An applied research center to serve the northern Kentucky area under contract with Northern Kentucky University.

(2) The basic research centers under contract with the University of Kentucky and the University of Louisville may be integrated with the applied research centers under contract with those institutions.

SECTION 48. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this subchapter, unless the context indicates otherwise:

(1) "Beneficiary of an economic incentive package" means any entity for which any assessment, incentive, inducement, or tax credit is issued or awarded pursuant to KRS 154.22-010 to 154.22-070, 154.24-010 to 154.24-150, 154.26-015 to 154.26-100, and 154.28-010 to 154.28-090;

(2) "Board" means the governance board of the Kentucky Science and Technology Council, Inc.;

(3) "Cabinet" means the Cabinet for Economic Development;

(4) "Center" means either or both of the following as the context requires:

(a) "Basic research centers" which means centers under contract with the University of Kentucky and the University of Louisville; and

(b) "Applied research centers" which means centers for applied research and technologies development;

(5) "Commonwealth" means the Commonwealth of Kentucky;

(6) "Council" means the Kentucky Science and Technology Council, Inc.;

(7) "Fund" means the Kentucky Research and Development Infrastructure fund created and established pursuant to Section 50 of this Act;

(8) "Infrastructure" means the Kentucky Research and Development Infrastructure;

(9) "Contracting university" means any of the following that contract with the council to operate a center: the University of Kentucky, the University of Louisville, Eastern Kentucky University, Western Kentucky University, Morehead State University, Northern Kentucky University, Murray State University, and Kentucky State University;

and

(10) "Secretary" means the secretary of the Cabinet for Economic Development.

SECTION 19. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The council shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of Sections 47 to 55 of this Act, including, but not limited to:

(1) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;

(2) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the infrastructure's operations, functions, and responsibilities; and

(3) Negotiating royalty payments on patents and licenses for innovations or inventions arising in the course of research conducted by the infrastructure's centers.

SECTION 20. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

There is established a fund entitled the "Kentucky Research and Development Infrastructure Fund" for the purposes and benefit of the Kentucky Research and Development Infrastructure. The fund may receive state appropriations, gifts, grants, and any other funds both public and private, and shall receive moneys accruing to the fund from state incentive fees as prescribed in Section 51 of this Act. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested as provided in KRS 42.500(6), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Research and Development Infrastructure.

SECTION 51. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Payments into the fund shall be made as follows:

(1) Any beneficiary of an economic incentive package for which the Kentucky Economic Development Finance Authority gives preliminary approval on or before December 31, 1995, shall pay a one (1) time fee of two thousand five hundred dollars ($2,500). The fee shall be paid at the closing on the incentive package contract and shall be transmitted by the cabinet to the State Treasurer for deposit into the fund;

(2) Any beneficiary of an economic incentive package for which the Kentucky Economic Development Finance Authority gives preliminary approval on or after January 1, 1996, shall pay annually to the State Treasurer an amount equal to five percent (5%) of the total amount of the tax credits and wage assessment taken by the beneficiary for its previous fiscal year under the inducement contract, for the term of the contract or agreement by which the state incentive is issued or awarded. The payment shall be made at the time the beneficiary of the economic incentive package files its income tax return for its previous fiscal year, and the payment shall be transmitted with the return. Immediately upon receipt, the State Treasurer shall deposit these funds into the Kentucky Research and Development Infrastructure fund;

(3) Before any contract or agreement is entered into by the cabinet or any board or authority within or attached to them, by which an economic incentive package is to be issued or awarded pursuant to this chapter, to the beneficiary of an economic incentive package, the cabinet or the board or authority shall include in the contract or agreement provisions for the payment of the appropriate amount of the annual fee as prescribed in this section;

(4) Notwithstanding the provisions of KRS 154.22-010 to 154.22-070, on or before December 31, 1996, the cabinet may with the consent of the beneficiary of any inducement contract entered into prior to the effective date of this Act or given preliminary approval by the cabinet on or before December 31, 1995, under the provisions of KRS 154.22-010 to 154.22-070 renegotiate the terms of the contract to provide that the beneficiary will pay into the fund annually, for the remaining term of the contract, an amount equal to two percent (2%) of the total benefits received under the contract for its preceding fiscal year; in return for this commitment, the benefit period under the contract may be extended for one (1) additional year;

(5) Notwithstanding the provisions of KRS 154.24-010 to 154.24-150, 154.26-015 to 154.26-100, and 154.28-015 to 154.28-090, on or before December 31, 1996, the cabinet may with the consent of the beneficiary of any inducement contract entered into prior to the effective date of this Act or given preliminary approval by the cabinet on or before December 31, 1995, under the provisions of KRS 154.24-010 to 154.24-150, 154.26-015 to 154.26-100, and 154.28-015 to 154.28-090 renegotiate the terms of the contract to provide that the beneficiary will pay into the fund annually, for the remaining term of the contract, an amount equal to five percent (5%) of the total benefits received

under the contract for its preceding fiscal year; in return for this commitment, the benefit period under the contract may be extended for one (1) additional year.

SECTION 52. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The council shall allocate moneys from the fund for the operation of the infrastructure and the centers subject to the following limitations:

(1) The council may retain not more than eight percent (8%) of the deposits into the fund in any budget year for the central administration of the infrastructure;

(2) After payment of expenses for central administration, not more than twenty-five percent (25%) of the remainder of the fund in any budget year shall be allocated to basic research centers and the balance shall be allocated to applied research centers;

(3) Not more than twenty percent (20%) of the total moneys allocated to applied research centers in any budget year shall be allocated to any one (1) applied research center; and

(4) All moneys allocated to the contracting universities for the operation of the centers shall be paid out in accordance with contracts entered into between the council and the universities;

(5) Notwithstanding the provisions of subsections (1) to (3) of this section:

  (a) The council may defer the establishment of all centers for up to four (4) years after the effective date of this Act to allow the fund to grow to sufficient size to support operation of the centers; and

  (b) The allocation percentage set forth in subsection (3) of this section may be modified by the council with approval of the cabinet for a period of up to four (4) years after the first center is established.

SECTION 53. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The council is authorized to establish accounts for each research center approved by the council. Each account shall be kept separately from any other accounts established by the council and shall be kept separately from any other moneys and accounts at participating research institutions.

(2) Each approved center may draw money from its account as approved by the council.

(3) On or before January 5, 1996, and annually on or before January 5 thereafter, the council shall submit to the Legislative Research Commission a written status report on the projects and activities of each center of the infrastructure.

(4) The Auditor of Public Accounts shall be responsible for a biennial financial post audit of the books and records of the infrastructure and each center approved by the infrastructure. The audit shall be conducted in accordance with generally accepted accounting principles and shall be paid for by the infrastructure.

SECTION 54. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The function of the basic research centers shall be to perform basic research of significant benefit to one (1) or more key industries that have been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth. The areas of research to be performed by each basic research center shall be set forth in the contract between the council and the contracting university and shall be approved only for those projects for which the center has a commitment from a private sector partner to make use of the results of the research.

(2) The functions of the applied research centers shall be:

  (a) To perform applied research, development, and technology transfer on a fee for service basis, to businesses and groups of businesses. For performing this function the center shall give preference to businesses in key industries and networks of businesses;

  (b) To provide advice to businesses regarding other areas of business operations necessary for improved performance, including workforce training, total quality assurance, inventory control, and reorganization of the business and workplace; and

  (c) To perform applied research and technology development of significant benefit to one (1) or more key industries in areas set forth in the contract between the council and the contracting university.

(3) The council shall appoint advisory committees of persons knowledgeable in each key industry to advise the council and the centers with regard to research needs of the industry and to evaluate research plans and research results.

(4) It shall be the goal of the infrastructure that eighty percent (80%) of the total revenues of each center shall be generated by payments under contracts from private businesses.

(5) To perform the functions set out in this section each center shall retain or contract with scientists, engineers, and

other persons having high levels of expertise in appropriate fields of research, including but not limited to, faculty, staff and students of the contracting universities; provided, however, that all contracts with persons employed by the contracting university shall be subject to approval by the council.

SECTION 55. A NEW SECTION OF SUBCHAPTER 35 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Universities individually or jointly eligible to serve as contracting universities for the centers set forth in Section 47 of this Act may qualify by:

(1) Agreeing to match the moneys allocated to the center by the council from the fund dollar-for-dollar from nonstate, nonagency funds raised by the university for research purposes; provided that for university budget years ending on or before July 1, 1996 a contracting university may provide its matching funds by redirecting previously budgeted state or agency funds. In the discretion of the council, a university may provide all or part of its match by in-kind contributions of facilities and equipment of equal value.

(2) Providing an operations plan, acceptable to the council, for the center which sets forth staffing, facilities, equipment, anticipated business demand for services, a proposed budget that reflects revenues from all sources including the fund, matching contributions from the contracting university, and anticipated receipts from research contracts with private businesses, and such other matters as directed by the council; and

(3) Entering into a contract with the council which sets forth the terms and conditions upon which the center will be operated, including the operations plan agreed upon by the parties, performance standards, and funding commitments. The contract may extend beyond the end of the budget cycle of the university, may be renewed or extended by the parties, and shall be terminable by the council for nonperformance or unacceptable performance by the university as specified in the contract."

And, on page 63, line 26, by changing "48" to "56".

Signed: Representatives John Will Stacy, Bill Lear, Gross Lindsay, and Jim Zimmerman, and Senators Joseph U. Meyer, Rick Rand, and Tom Buford.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Lear moved that **SB 277**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See April 1, 1994 roll call on **SB 277** - Appendix)

SB 277, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 277**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Cyrus moved that the Conference Committee Report on **SB 348** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to the Free Conference Committee on **SB 348**: Representatives Cyrus, Stacy, Adkins and Mullinix.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 316 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Arnold moved the adoption of the following Free Conference Committee Report on **SB 316**.

The Free Conference Committee on **SB 316** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 316** with the following amendment:

On page 1, after line 24, insert the following:

"*(3) This section shall not apply to state universities, state-operated hospitals and residential facilities for the mentally ill and the mentally retarded, state-operated veterans' nursing homes and health facilities, and jails or detention facilities.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 10 of this Act, unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(3) "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the

manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(4) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5) "Sample" means a tobacco product distributed to members of the general public at no cost;

(6) "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, beginning one (1) year after the effective date of this Act, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than ten dollars ($10) nor more than twenty-five dollars ($25) for each violation. The fine shall be administered by the department using a civil enforcement procedure.

SECTION 4. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the department in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

SECTION 5. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on the effective date of this section, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(3) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (2) of this section in a place and in a manner so as to be easily accessible to any cabinet employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in Sections 2 to 10 of this Act.

(4) Any owner of the retail establishment violating subsections (1) to (3) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than twenty five dollars ($25) for each violation. The fine shall be administered by the department in a civil enforcement procedure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) The department shall carry out annually-conducted random, unannounced inspections of retail establishments where tobacco products are sold or distributed for the purpose of enforcing the provisions of Sections 2 to 10 of this Act. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The department shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of Sections 2 to 10 of this Act only if the testing is conducted under the direct supervision of the department, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The department shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

(2) The Department of Agriculture shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The Department of Agriculture shall enforce Sections 2 to 10 of this Act. The department shall be entitled to keep one hundred percent (100%) of any fines collected under Sections 2 to 10 of this Act to offset the costs of enforcement of Sections 2 to 10 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

The department is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of Sections 2 to 10 of this Act.

Section 9. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or knowingly solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than ***twenty-five dollars ($25)*** [~~fifty dollars ($50)~~] for a first violation and a fine of not less than twenty-five dollars ($25) nor more than ***fifty dollars ($50)*** [~~one hundred dollars ($100)~~] for any subsequent violation. ***The fine shall be administered by the department using a civil enforcement procedure.***

Section 10. KRS 365.395 is repealed, reenacted as a new section of KRS Chapter 438, and amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may ***distribute*** [~~provide~~] cigarettes or tobacco products***, including*** [~~or~~] samples thereof~~,~~ free of charge ***or otherwise,*** to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] nor more than ***two hundred fifty*** [~~one hundred~~] dollars ***($250)*** [~~($100)~~] for each offense. ***The fine shall be administered by the department using a civil enforcement procedure.***

SECTION 11. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

It is the intent of the Legislature that Sections 2 to 10 of this Act shall be enforced in an equitable and uniform manner throughout the Commonwealth. For the purpose of equitable and uniform enforcement, the provisions of Sections 2 to 10 of this Act shall supersede any subsequently enacted local law, ordinance, or regulation which relates to the use, sale, or distribution of tobacco products. It is the intent of the Legislature that Sections 2 to 10 of this Act be enforced so as to ensure the eligibility for and receipt of any federal funds or grants that the Commonwealth of Kentucky now receives or may receive relating to the provisions of Sections 2 to 10 of this Act."

Signed: Representatives Donnie Gedling, Adrian Arnold, Lonnie Napier and Drew Graham, and Senators David Boswell, Robert Leeper, and Virgil Moore.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call to adopt the Free Conference Committee Report on **SB 316**, the vote was **Yeas 73**–Adams, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Brown, Bruce, Bryant, Buis, Butler, Cave, L. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gedling, Gee, Graham, Gray, Hampton, Hancock, Harper, Jensen, Keith, Kerr, Lee, LeMaster, Lewis, Little, Lyne, Maggard, Maricle, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Nesler, Noland, Nunn, Palumbo, Rapier, Reinhardt, Sanders, Scott, Shacklette, Simpson, Stacy, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Yates. **Nays 11**–Ackerson, Bowling, Burch, Heleringer, Marzian, Northup, Rasche, Ridley, Riggs, Riner, Stengel.

The motion to adopt the Free Conference Committee Report on **SB 316** was adopted.

Representative Arnold moved that **SB 316**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 75, Nays 12. (See April 1, 1994 roll call on **SB 316** - Appendix)

SB 316, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Arnold moved that the vote by which **SB 316**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

SB 29 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 29**: Senators Leeper, Lackey and Buford.

SB 171 returned with the following message: The Senate has rejected the Free Conference Committee Report on **SB 171** and has appointed a Second Free Conference. The following members have been appointed to serve on a Second Free

Conference to **SB 171**: Senators Leeper, Green and Casebier.

SB 348 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 348**: Senators Blevins, J. Meyer and Rogers. (Time: 3:10 p.m.)

Orders of the Day (Continued)

Representative Palumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 179**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Representative June Lyne for extraordinary dedication to the legislative process and the good will and friendship said recipient has generously given to her colleagues in the House of Representatives. For inasmuch as the Kentucky farmer has enjoyed the guardianship of the lady from Logan during her exceptional tenure representing those honest citizens of the sixteenth legislative district; her colleagues hold her in extraordinary esteem as the Enrollment Chairman for the House of Representatives; therefore, this prestigious body does salute the integrity of this phenomenal lady and bids her wishes "extradinaire" for the best is yet to come.

The Second Free Conference Committee Report was filed on **SB 171**.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 741, HB 798, SB 256, SB 271** and **SB 284** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:37 p.m.)

HB 741, and **HB 798** delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1994 at 3:45 p.m.

Orders of the Day (Continued)

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 301**: Representatives Long, Clarke, L. Clark, Rapier, Richards and Noland.

Representative Stumbo moved that the Conference Committee Report on **HB 301** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 301**.

Representative Stengel moved that the Conference Committee Report on **SB 222** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 222**: Representatives Stengel, Simpson, Kerr and Cave.

SB 222 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stengel moved the adoption of the Free Conference Committee Report on **SB 222**. Agreed.

Representative Stengel moved that **SB 222**, as amended by the Free Conference Committee Report, be passed.

Representative Stengel moved that the motion to adopt the Free Conference Committee Report on **SB 222** be withdrawn since the Free conference Committee Report was not on the members' desks. Agreed.

Representative Trapp moved the adoption of the following **Legislative Citation No. 181**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Jill Cranston for superb professional contribution during the 1994 General Assembly. For inasmuch as legislative interns are a unique group of the finest Kentucky students; and whereas the legislative interns are indispensable to legislators during the hectic schedule of the legislative session; this honorable body does hereby extol the exceptional abilities and the keen intellect of said recipient and extends best wishes for continued academic successes.

A Conference Committee Report was filed on **HB 301**.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 171 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Zimmerman moved the adoption of the following Free Conference Committee Report No. 2 on **SB 171**. Agreed.

The Second Free Conference Committee on **SB 171** met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 171** with House Floor Amendment No. 1.

Signed: Representatives Jim Zimmerman, Denver Butler, and Leonard Gray, and Senators Lindy Casebier, Robert Leeper, and Jeff Green.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Zimmerman moved that **SB 171**, as amended by the Free Conference Committee Report No. 2, be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See April 1, 1994 roll call on **SB 171** - Appendix)

SB 171, as amended by the Free Conference Committee Report No. 2, was passed and the title agreed to.

Representative Zimmerman moved that the vote by which **SB 171**, as amended by the Free Conference Committee Report No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Geveden moved that the Conference Committee Report on **SB 29** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **SB 29**.

Representative Mason moved the adoption of the following **Legislative Citation No. 183**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Tracy Rogers for superb professional contribution during the 1994 General Assembly. For inasmuch as legislative interns are a unique group of the finest Kentucky students; and whereas the legislative interns are indispensable to legislators during the hectic schedule of the legislative session; this honorable body does hereby extol the exceptional abilities and the keen intellect of said recipient and extends best wishes for continued academic successes.

HB 301 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Long moved the adoption of the following Free Conference Committee Report on **HB 301**. Agreed.

The Free Conference Committee on **HB 301** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 301** with the following amendment:

On page 1, line 16, by deleting "143,300" in the 1994-95 column and inserting in lieu thereof "668,900"; and

On page 1, line 16, by deleting "143,300" in the 1995-96 column and inserting in lieu thereof "695,200"; and

On page 1, line 18, by deleting "91,620,200" and inserting in lieu thereof "92,145,800"; and

On page 1, line 18, by deleting "96,047,800" and inserting in lieu thereof "96,599,700"; and

On page 2, line 14, by deleting "143,300" in the 1994-95 column and inserting in lieu thereof "668,900"; and

On page 2, line 14, by deleting "143,300" in the 1995-96 column and inserting in lieu thereof "695,200"; and

On page 2, line 16 by deleting "105,649,500" and inserting in lieu thereof "106,175,100"; and

On page 2, line 16, by deleting "111,432,000" and inserting in lieu thereof "111,983,900"; and

On page 3, line 6, by deleting "143,300" in the 1994-95 column and inserting in lieu thereof "668,900"; and

On page 3, line 6, by deleting "143,300" in the 1995-96 column and inserting in lieu thereof "695,200"; and

On page 3, line 8, by deleting "110,221,600" and inserting in lieu thereof "110,747,200"; and

On page 3, line 8, by deleting "116,010,500" and inserting in lieu thereof "116,562,400"; and

On page 4, line 14, by deleting "143,300" in the 1994-95 column and inserting in lieu thereof "668,900"; and

On page 4, line 14, by deleting "143,300" in the 1995-96 column and inserting in lieu thereof "695,200"; and

On page 4, line 16, by deleting "111,326,900" and inserting in lieu thereof "111,852,500"; and

On page 4, line 16, by deleting "116,875,800" and inserting in lieu thereof "117,427,700".

Signed: Representatives Marshall Long, Clarence Noland, Jr., Kenny Rapier, Joe Clarke, Jody Richards, Larry Clark, and Senators Michael Moloney, Walter Baker, Charles W. Berger, John A. "Eck" Rose, Dan Kelly, and David K. Karem.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Long moved that **HB 301**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 59, Nays 26. (See April 1, 1994 roll call on **HB 301** - Appendix)

HB 301, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 301**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

SB 262 returned with the following message: Upon request of the House of Representatives and adopted motion of the Senate, the Senate is hereby returning **SB 262** to this Honorable Body. (Time: 4:55 p.m.)

Orders of the Day (Continued)

Representative Long moved that **HB 455**, as amended by the previously adopted Free Conference Committee Report, be placed upon its final passage.

On the roll call the vote was: Yeas 51, Nays 40. (See April 1, 1994 roll call on **HB 455** - Appendix)

HB 455, as amended by the previously adopted Free Conference Committee Report, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 455**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess until 5:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Trapp moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Trapp moved that he be recorded as voting "yea" on **SB 214,** the Senate Committee Amendment No. 1 and the final passage of **HB 34, HB 639, SB 284** and "nay" on **HB 34** be laid on the Clerk's Desk. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **SB 262**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 900**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 390**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 183**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 928, HB 299, HB 388, HB 483, HB 513, HB 628, HB 712, HB 775, HB 798, HB 864, HB 898** and **HB 900**. Agreed.

Orders of the Day (Continued)

A Free Conference Committee Report was filed on **SB 29**.

A Free Conference Committee Report was filed on **SB 222**.

A Conference Committee Report was filed on **SB 308**.

Senate Message (Continued)

SB 308 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **SB 308**: Senators Shaughnessy, Smith and Buford.

HB 301 returned with the following message: The Senate has appointed the following members to serve on a Free conference Committee to **HB 301**: Senators Moloney, Berger, Baker, Rose, Kelly and Karem. (Time: 5:10 p.m.)

A Free Conference Committee Report was filed on **SB 348**.

The Clerk announced a Majority Caucus in the Court Room upon recess.

The Clerk announced a Minority Caucus in the Floor Leader's Office upon recess.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 517**: Representatives Barrows, Lee, Damron and Keith.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 207**: Representatives Lear, Mason and Maricle.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 67**: Representatives Moberly, Lee, Bowling and Treesh.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 250**: Representatives Scorsone, L. Clark, Rapier, Richards, Nunn and DeWeese.

Recess

Representative Stumbo moved that the House recess for a Majority Caucus and a Minority Caucus. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 455** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:34 p.m.)

HB 455 delivered to the Senate and signed by the President. Delivered to the Governor on April 1 at 7:55 p.m.

Senate Message (Continued)

HB 302 returned with the following message: The Senate has adopted the Free Conference Committee Report on **HB 302** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 5:25 p.m.)

Orders of the Day (Continued)

A Conference Committee Report was filed on **HB 250**.

Representative Stumbo moved that the Conference Committee Report requesting a Free Conference be adopted on **HB 250**. Agreed.

The Speaker announced the appointment of the following members to the Free Conference Committee on **HB 250**: Representatives Scorsone, L. Clark, Rapier, Richards, Nunn and DeWeese.

SB 222 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stengel moved the adoption of the following Free Conference Committee Report on **SB 222**. Agreed.

The Free Conference Committee on **SB 222** met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 222** with the following amendment:

On page 7, after line 7, add the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

If in its decree the court commits the child to the custody or guardianship of the cabinet, the court may order further detention of the child for a reasonable time upon a finding of the court by a preponderance of the evidence that the cabinet has found a suitable residential facility for the juvenile but has no bed in that facility or another facility of equal stability currently available and the circumstances surrounding the child are such as to endanger his safety or welfare or that of the community.

Section 5. KRS 610.280 is amended to read as follows:

(1) (a) If a child is detained ***pursuant to KRS 610.265*** for the alleged commission of a public offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention ***if the child is detained in an intermittent holding facility. If the child is detained in a secure juvenile detention facility or a juvenile holding facility, then a hearing shall be held as soon as practical, but not to exceed forty-eight (48) hours, exclusive of weekends and holidays, of the commencement of detention***.

(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention.

(2) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case; and

(b) In determining detention, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child.

(3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention."

Signed: Representatives Dave Stengel, Arnold Simpson, Stanton Cave, Thomas R. Kerr, and Senators Gerald Neal and Fred Bradley.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Stengel moved that **SB 222**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See April 1, 1994 roll call on **SB 222** - Appendix)

SB 222, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Stengel moved that the vote by which **SB 222**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 348 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Cyrus moved the adoption of the following Free Conference Committee Report on **SB 348**. Agreed.

The Free Conference Committee on **SB 348** met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 348** with the following amendment:

On page 4, following line 26, by inserting the following:

Section 4. KRS 118B.110 is amended to read as follows:

The First Congressional District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
ADAIR	~~[A101~~		~~PELLYTON~~			
~~ADAIR~~	~~A102~~		~~WHITE OAK~~			
~~ADAIR~~	~~A104~~		~~EUNICE~~			
~~ADAIR~~	~~A105~~		~~LITTLE CAKE~~			
~~ADAIR~~	~~B101~~		~~GLENSFORK~~			
~~ADAIR~~	~~B102~~		~~E. COLUMBIA~~			
~~ADAIR~~	~~B104~~		~~OZARK~~			
~~ADAIR~~	~~C101~~		~~MELSON RIDGE~~			
~~ADAIR~~	~~C102~~		~~SOUTH COLUMBIA # 1~~			
~~ADAIR~~	~~C103~~		~~HARMONY~~			
~~ADAIR~~	~~D101~~		~~GRADYVILLE~~			
~~ADAIR~~	~~D102~~		~~NELL~~			
~~ADAIR~~	~~D103~~		~~SPARKSVILLE~~			
~~ADAIR~~	~~D104~~		~~SOUTH COLUMBIA # 2~~			
~~ADAIR~~	~~D105~~		~~BREEDING~~			
~~ADAIR~~	~~E101~~		~~MILLTOWN~~			
~~ADAIR~~	~~E102~~		~~TARTER~~			
~~ADAIR~~	~~E103~~		~~KELTNER~~			
~~ADAIR~~	~~E104~~		~~WEST COLUMBIA~~			
~~ADAIR~~	~~F101~~		~~CANE VALLEY~~			

~~ADAIR~~	~~F102~~	~~HOLMES~~			
~~ADAIR~~	~~F103~~	~~KNIFLEY~~			
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~102~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~103~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~107~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~108~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~109~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~110~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~111~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~112~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~201~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~202~~	~~0201~~
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~203~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~204~~	~~0201~~
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~205~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~206~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~207~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~208~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~209~~	
~~ADAIR~~	~~F104~~	~~ROLEY~~	~~9701~~	~~210~~	
~~ADAIR~~	~~G101~~	~~NORTH COLUMBIA~~			
~~ADAIR~~	~~G102~~	~~HURT~~]			
ALLEN					
BALLARD					
BUTLER					
CALDWELL					
CALLOWAY					
CARLISLE					
CHRISTIAN					
CLINTON					
CRITTENDEN					
CUMBERLAND					
FULTON					
GRAVES					
HENDERSON					
HICKMAN					
HOPKINS					
LIVINGSTON					
LOGAN					
LYON					
MARSHALL					
MCCRACKEN					
MCLEAN					
MONROE					
MUHLENBERG					
OHIO					
RUSSELL					
SIMPSON					

TODD
TRIGG
UNION
WEBSTER

Section 5. KRS 118B.120 is amended to read as follows:

The Second Congressional District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
~~[ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~101]~~	
BARREN						
BRECKINRIDGE						
BULLITT						
CASEY						
DAVIESS						
EDMONSON						
GRAYSON						
GREEN						
HANCOCK						
HARDIN						
HART						
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	411	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	412	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	413	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	414	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	419	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	420	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	901	0201
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	905	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	917	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	918	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	928	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	929	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	938	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	939	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	940	
JEFFERSON	A122		PRECINCT 122 28 DISTRICT	012104	999	0201
JEFFERSON	B113		PRECINCT 113 29 DISTRICT			
JEFFERSON	B116		PRECINCT 116 29 DISTRICT			
JEFFERSON	B117		PRECINCT 117 29 DISTRICT			
JEFFERSON	B120		PRECINCT 120 29 DISTRICT			
JEFFERSON	B121		PRECINCT 121 29 DISTRICT			
JEFFERSON	C120		PRECINCT 120 30 DISTRICT	011703	201	
JEFFERSON	C120		PRECINCT 120 30 DISTRICT	011703	202	
JEFFERSON	C120		PRECINCT 120 30 DISTRICT	011703	203	
JEFFERSON	C120		PRECINCT 120 30 DISTRICT	011703	204	
JEFFERSON	C120		PRECINCT 120 30 DISTRICT	011703	208	
JEFFERSON	C120		PRECINCT 120 30 DISTRICT	011703	209	
JEFFERSON	F109		PRECINCT 109 33 DISTRICT			

JEFFERSON	F110	PRECINCT 110 33 DISTRICT			
JEFFERSON	F111	PRECINCT 111 33 DISTRICT			
JEFFERSON	F112	PRECINCT 112 33 DISTRICT			
JEFFERSON	F113	PRECINCT 113 33 DISTRICT			
JEFFERSON	F126	PRECINCT 126 33 DISTRICT			
JEFFERSON	I126	PRECINCT 126 37 DISTRICT	012003	302	0202
JEFFERSON	I126	PRECINCT 126 37 DISTRICT	012003	304	
JEFFERSON	I126	PRECINCT 126 37 DISTRICT	012003	305	
JEFFERSON	I126	PRECINCT 126 37 DISTRICT	012003	309	
JEFFERSON	I126	PRECINCT 126 37 DISTRICT	012003	399	
JEFFERSON	J123	PRECINCT 123 38 DISTRICT	012003	216	
JEFFERSON	J123	PRECINCT 123 38 DISTRICT	012003	217	
JEFFERSON	J123	PRECINCT 123 38 DISTRICT	012003	218	
JEFFERSON	J123	PRECINCT 123 38 DISTRICT	012003	219	
JEFFERSON	J123	PRECINCT 123 38 DISTRICT	012003	220	
JEFFERSON	J123	PRECINCT 123 38 DISTRICT	012003	302	0201
JEFFERSON	J124	PRECINCT 124 38 DISTRICT			
JEFFERSON	J125	PRECINCT 125 38 DISTRICT			
JEFFERSON	P105	PRECINCT 105 45 DISTRICT	012001	908	0201
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	915	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	916	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	918	0201
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	919A	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	919B	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	919C	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	919D	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	920	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	921A	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	921B	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	921C	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	922A	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	922B	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	922C	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012001	923	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	307	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	308	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	310	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	311	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	312	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	313	
JEFFERSON	P110	PRECINCT 110 45 DISTRICT	012003	399	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	903	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	904	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	905	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	906	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	908	0202
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	909	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	910	

JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	911	0201
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	912	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	913	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	914	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	917	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	918	0202
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	925	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	926	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	927	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	999	
JEFFERSON	P111	PRECINCT 111 45 DISTRICT	012001	999	
JEFFERSON	P112	PRECINCT 112 45 DISTRICT			
JEFFERSON	P113	PRECINCT 113 45 DISTRICT			
JEFFERSON	P114	PRECINCT 114 45 DISTRICT			
JEFFERSON	P115	PRECINCT 115 45 DISTRICT			
JEFFERSON	P116	PRECINCT 116 45 DISTRICT			
JEFFERSON	Q115	PRECINCT 115 46 DISTRICT			
JEFFERSON	Q118	PRECINCT 118 46 DISTRICT			
JEFFERSON	Q119	PRECINCT 119 46 DISTRICT			
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	210	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	211	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	311	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	401	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	402	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	403	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	405	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	410	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	411	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	412	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	413	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	414	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	415	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	416	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	417	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	418	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	419	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	420	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	421	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	422	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	423	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	499	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	499	
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT	011703	499	
JEFFERSON	Q121	PRECINCT 121 46 DISTRICT			
JEFFERSON	R125	PRECINCT 125 47 DISTRICT			
JEFFERSON	R130	PRECINCT 130 47 DISTRICT			
LARUE					
LINCOLN	C102	WAYNESBURG #2			

LINCOLN	C103	KINGS MOUNTAIN
LINCOLN	D101	HUSTONVILLE
LINCOLN	D102	MCKINNEY
MARION		
MEADE		
METCALFE		
NELSON		
SPENCER		
TAYLOR		
WARREN		
WASHINGTON		

Section 6. KRS 118B.140 is amended to read as follows:

The Fourth Congressional District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
BOONE						
BOYD						
BRACKEN						
CAMPBELL						
CARROLL						
CARTER						
ELLIOTT						
FLEMING						
GALLATIN						
GRANT						
GREENUP						
HENRY						
KENTON						
~~[LAWRENCE~~	~~A101~~		~~BUCHANAN~~			
~~LAWRENCE~~	~~A102~~		~~FALLSBURG~~			
~~LAWRENCE~~	~~A103~~		~~BRAMMER GAP~~			
~~LAWRENCE~~	~~A104~~		~~DEEPHOLE~~			
~~LAWRENCE~~	~~B101~~		~~WEST LOUISA~~			
~~LAWRENCE~~	~~B102~~		~~ADAMS~~			
~~LAWRENCE~~	~~B103~~		~~SPRING HILL~~			
~~LAWRENCE~~	~~C101~~		~~BRUSHY~~			
~~LAWRENCE~~	~~C102~~		~~BLAINE~~			
~~LAWRENCE~~	~~C103~~		~~MARTHA~~			
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~190~~	~~0202~~
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~191~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~192~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~202~~	~~0404~~
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~213~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~214~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~227~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~228~~	
~~LAWRENCE~~	~~D103~~		~~EAST LOUISA~~			
~~LAWRENCE~~	~~D104~~		~~POINT]~~			

LEWIS						
MASON						
~~[NICHOLAS~~	~~A102~~		~~BARTERVILLE~~			
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~115~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~116~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~121~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~122~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~124~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~125~~	~~0202~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~126~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~139~~	~~0202~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~140~~	~~0202]~~
OLDHAM						
OWEN						
PENDLETON						
ROBERTSON						
ROWAN						
SHELBY						
TRIMBLE						

Section 7. KRS 118B.150 is amended to read as follows:

The Fifth Congressional District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
BELL						
BREATHITT						
CLAY						
FLOYD						
HARLAN						
JACKSON						
JOHNSON						
KNOTT						
KNOX						
LAUREL						
LAWRENCE	~~[C104~~		~~MEADS BRANCH~~	~~9904~~	~~167~~	~~0202~~
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~168~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~169~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~170~~	~~0303~~
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~174~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~193~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~202~~	~~0402~~
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~215~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~216~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~217~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~218~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~219~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~220~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~221~~	
~~LAWRENCE~~	~~C104~~		~~MEADS BRANCH~~	~~9904~~	~~222~~	

~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~223~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~224~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~225~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~226~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~229~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~230~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~231~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~232~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~233~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~234~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~235~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~236~~	~~0201~~
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~262~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~263~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~264~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~265~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~266~~	
~~LAWRENCE~~	~~C104~~	~~MEADS BRANCH~~	~~9904~~	~~267~~	
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LESLIE						
LETCHER						
MAGOFFIN						
MARTIN						
MCCREARY						
MENIFEE						
MORGAN						
OWSLEY						
PERRY						
PIKE						
PULASKI						
ROCKCASTLE						
WAYNE						
WHITLEY						
WOLFE						

Section 8. KRS 118B.160 is amended to read as follows:

The Sixth Congressional District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
ANDERSON						
BATH						
BOURBON						
BOYLE						
CLARK						
ESTILL						
FAYETTE						

FRANKLIN						
GARRARD						
HARRISON						
JESSAMINE						
LINCOLN	A101	0201	STANFORD #1			
LINCOLN	A101	0202	STANFORD #1			
LINCOLN	A102		STANFORD #2			
LINCOLN	A103		STANFORD #3			
LINCOLN	B101		CRAB ORCHARD #1			
LINCOLN	B102		CRAB ORCHARD #2			
LINCOLN	B103		BROUGHTENTOWN			
LINCOLN	B104		STANFORD # 5			
LINCOLN	C101		WAYNESBURG #1			
LINCOLN	C104		HALLS GAP			
LINCOLN	D103		MORELAND			
LINCOLN	D104		STANFORD # 4			
MADISON						
MERCER						
MONTGOMERY						
NICHOLAS	~~[A101~~		~~HEADQUARTERS~~			
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~101~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~102~~	
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~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~109~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~110~~	~~0201~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~111~~	~~0301~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~112~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~113~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~114~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~123~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~142~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~143~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~144~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~145~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~146~~	~~0303~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~147~~	~~0302~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~152~~	~~0201~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~154~~	~~0301~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~155~~	~~0202~~
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~157~~	~~0201~~
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~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~192~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~193~~	
~~NICHOLAS~~	~~B101~~		~~RAFFERTY~~	~~9601~~	~~199~~	

~~NICHOLAS~~	~~B102~~	~~MYERS~~
~~NICHOLAS~~	~~C101~~	~~MOOREFIELD~~
~~NICHOLAS~~	~~C102~~	~~EAST UNION~~
~~NICHOLAS~~	~~D101~~	~~MAYORS OFFICE~~
~~NICHOLAS~~	~~D102~~	~~ENGINE HOUSE~~
~~NICHOLAS~~	~~E101~~	~~MATHIAS~~
~~NICHOLAS~~	~~E102~~	~~CITY BUILDING~~]
POWELL		
SCOTT		
WOODFORD		

Section 9. KRS 5.126 is amended to read as follows:

The Twenty-sixth Senatorial District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
CARROLL						
GRANT						
HENRY						
OLDHAM						
OWEN						
PENDLETON						
[~~SCOTT~~	~~B115~~		~~PORTER~~]			
TRIMBLE						

Section 10. KRS 5.130 is amended to read as follows:

The Thirtieth Senatorial District shall consist of the following territory:

				—CENSUS—		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
BOURBON						
FAYETTE	A104		BELL SCHOOL HOUSE			
FAYETTE	A108		DONERAIL			
FAYETTE	A116		GREENDALE			
FAYETTE	A126		MARLBORO			
FAYETTE	A134		RADCLIFFE			
FAYETTE	C149		BLUE ACRES			
FAYETTE	C153		KINGSTON			
FAYETTE	C154		MAN O WAR			
FAYETTE	C155		MARY TODD			
FAYETTE	C159		SHANDON PARK			
HARRISON						
NICHOLAS						
ROBERTSON						
SCOTT	[~~A101~~		~~SOUTHERN SCHOOL~~			
~~SCOTT~~	~~A103~~		~~GEORGETOWN MIDDLE SCHOOL~~			
~~SCOTT~~	~~A107~~		~~GARTH SCHOOL~~			
~~SCOTT~~	~~A109~~		~~CANE RUN~~			
~~SCOTT~~	~~A110~~		~~NEWTOWN~~			
~~SCOTT~~	~~B101~~		~~COURTHOUSE~~			
~~SCOTT~~	~~B106~~		~~NORTH HAMILTON~~			
~~SCOTT~~	~~B111~~		~~OXFORD~~			

~~SCOTT~~	~~B113~~		~~SADIEVILLE~~
~~SCOTT~~	~~C104~~	~~0201~~	~~INDIAN HILLS~~
~~SCOTT~~	~~C104~~	~~0202~~	~~INDIAN HILLS~~
~~SCOTT~~	~~C105~~	~~0201~~	~~ROYAL SPRINGS~~
~~SCOTT~~	~~C105~~	~~0202~~	~~ROYAL SPRINGS~~
~~SCOTT~~	~~C106~~		~~INDIAN ACRES~~
~~SCOTT~~	~~C108~~		~~SOUTH BROADWAY~~
~~SCOTT~~	~~C118~~		~~STAMPING GROUND~~
~~SCOTT~~	~~C119~~		~~GREAT CROSSING SCHOOL~~
~~SCOTT~~	~~C120~~		~~GREAT CROSSING~~
~~SCOTT~~	~~C121~~		~~MINORSVILLE]~~

WOODFORD

Section 11. Sections 4 to 10 of this Act shall become effective November 9, 1994."; and

Amend title to read as follows: "AN ACT relating to districts."

Signed: Representatives Ron Cyrus, John Will Stacy, Rocky Adkins, and Ray Mullinix, and Senators Walter Blevins, Joseph U. Meyer, and John Rogers.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Cyrus moved that **SB 348**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See April 1, 1994 roll call on **SB 348** - Appendix)

SB 348, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **SB 348**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 51 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

A Minority Free Conference Report on **SB 51** was filed as follows:

The Free Conference Committee on **SB 51** has met as provided in the Rules of the House and Senate and hereby reports the following Minority Report to be adopted:

Recommend not concurring in the House Committee Substitute to the GA Copy of **SB 51** because it forces minority teachers to choose to serve or accept less teacher representation on the council.

Signed: Representative Mark Treesh.

The above-named members, in separate votes by house, all concur in the provisions of this report.

A Majority Free Conference Report was filed on **SB 51**.

Representative Moberly moved the adoption of the following Majority Free Conference Committee Report on **SB 51**.

The Free Conference Committee on **SB 51** met as provided in the Rules of the House and Senate and hereby reports the following Majority Report to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 51** with the following amendment:

On page 2, line 22 after "***teachers***" by inserting "***who are members of the faculty***"; and

On page 2, lines 22 and 23 by deleting "***or no minority teacher chooses to serve***"; and

On page 2, line 24 after "***teachers.***" by adding the following:

"***Term limitations shall not apply for a minority teacher member who is the only minority on faculty.***"

Signed: Representatives Harry Moberly, Jr., Kenny Rapier, Russell Bentley, and Senators Ed Ford, Lindy Casebier, and Gerald Neal.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call on the adoption of the Majority Free Conference Committee Report on **SB 51**, the vote was **Yeas 57**– Adkins, Arnold, Bentley, Bondurant, Bowling, Brown, Burch, Butler, Callahan, L. Clark, Coleman, Collins, Crenshaw, Curd, Cyrus, Deskins, DeWeese, Donnermeyer, Fox, French, Gedling, Geveden, Graham, Gray, Hancock, Hatcher, Heleringer, Lee, Lewis, Little, Long, Maggard, Marzian, Mason, McElroy, Moberly, Mullinix, Nelson, Nesler, Northup, Palumbo, Rapier, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stacy, Stumbo, Trapp, Wayne, Yates. **Nays 15**--Allen, Ballard, Bruce, Gee, Hampton, Harper, Keith, Kerr, Maricle, Nunn, Reinhardt, Stengel, Treesh, Turner, Walton.

The Majority Free Conference Committee Report on **SB 51** was adopted.

Representative Moberly moved that **SB 51**, as amended by the Majority Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 60, Nays 17. (See April 1, 1994 roll call on **SB 51** - Appendix)

SB 51, as amended by the Majority Free Conference Committee Report, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 51**, as amended by the Majority Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

HB 301 returned with the following message: The Senate has adopted the Free Conference Committee Report on **HB 301** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

HB 207 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 207**: Senators Bailey, Pendleton and Roeding.

HB 517 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 517**: Senators J. Meyer, Saunders and Huff. (Time: 7:49 p.m.)

Orders of the Day (Continued)

SB 29 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Geveden moved the adoption of the following Free Conference Committee Report on **SB 29**. Agreed.

The Free Conference Committee on **SB 29** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **SB 29** with the following amendment:

On page 1, below line 8, to insert the following:

"Section 2. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court;

(13) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Department" means the Department for Social Services;

(15) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to

provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(31) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33) "Parent" means the biological or adoptive mother or father of a child;

(34) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36) "Physical injury" means substantial physical pain or any impairment of physical condition;

(37) "Public offense action" means an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense;

(38) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42) "Secretary" means the secretary of the Cabinet for Human Resources;

(43) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51) "Youthful offender" means any person regardless of age, ***who comes within the criteria set forth in subsections (2), (3), (4), (6), and (7) of KRS 635.020 and is handled under the provisions of KRS Chapter 640*** [~~transferred to Circuit Court under the provisions of KRS Chapter 640 and who is subsequently convicted in Circuit Court~~].

Section 4. KRS 635.020 is repealed, reenacted, and amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed ***an offense*** [~~a felony~~] other than those described in subsections (2) and (3) of this section, [~~a misdemeanor, or a violation,~~] the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony or Class B felony, ***or a felony offense involving a deadly weapon or a felony offense wherein a deadly weapon was used,*** had attained age fourteen (14) at the time of the alleged commission of the offense, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender ***in the adult session of the trial court having jurisdiction over the offense***[~~, proceed in accordance with the provisions of KRS 640.010~~].

(3) If a child charged with a Class C or Class D felony has on two (2) prior separate occasions been adjudicated a public offender for a felony offense or a delinquent of a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender[~~, proceed~~] in [~~accordance with~~] the ***Circuit Court*** [~~provisions of KRS 640.010~~].

(4) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender[~~, proceed~~] in [~~accordance with~~] the ***Circuit Court*** [~~provisions of KRS 640.010~~].

(5) A child who is charged as is provided in subsection (2) of this section and is also charged with ***any other offenses*** [~~a Class C or D felony, a misdemeanor or a violation~~] arising from the same course of conduct, shall have all charges included in the same proceedings; and [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender[~~, proceed~~] in [~~accordance with~~] the ***adult session of the Trial Court having jurisdiction over the highest offense*** [~~provisions of KRS 640.010~~].

(6) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, [~~the court shall, upon motion of the county attorney made prior to adjudication that~~] the child ***shall*** be proceeded against as a youthful offender[~~, proceed~~] in [~~accordance with~~] the ***Circuit Court*** [~~provisions of KRS 640.010~~].

(7) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 [~~and transferred to Circuit Court~~].

Section 4. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, [~~if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 or if the county attorney elects not to proceed under KRS Chapter 640,~~] the court may:

    (a) If a child is fourteen (14) years of age or older, and is adjudicated a public offender in the commission of a capital offense, Class A felony or Class B felony, ***or a felony offense involving a deadly weapon or a felony offense wherein a deadly weapon is used,*** the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday; or

    (b) If a child is sixteen (16) years of age or older, and is adjudicated a public offender in the commission of a felony offense and has previously been adjudicated delinquent of two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications, or has previously been adjudicated a public offender for two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday.

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) The cabinet shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.

(4) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(5) The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

~~[(6) After a child has been committed to the cabinet as provided in this section, he may not then be transferred to the Circuit Court as provided for in KRS 640.020.]~~

Section 5. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5), (6), or (7), the ***judge*** ~~[court]~~ shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020, the court shall upon motion by the ***Commonwealth or youthful offender conduct a*** ~~[county attorney to proceed under this chapter, conduct a preliminary]~~ hearing to determine if the ***youthful offender*** ~~[child]~~ should be transferred to ***the juvenile session of District Court*** ~~[Circuit Court as a youthful offender]~~. The ~~[preliminary]~~ hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the ~~[preliminary]~~ hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the ***juvenile session of District*** ~~[Circuit]~~ Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public; and
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system.

(c) If, following the completion of the ~~[preliminary]~~ hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section, that the child should be transferred to ***the juvenile session of District*** ~~[Circuit]~~ Court, the court shall issue an order transferring the child ~~[as a youthful offender]~~ and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the ***District*** ~~[Circuit]~~ Court as ***a juvenile*** ~~[an adult]~~, except as otherwise provided in ***KRS Chapter 635*** ~~[this chapter]~~.

(d) If, following completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section that the child shall not be transferred ~~[to the Circuit Court]~~, the case shall be dealt with as provided in ***this chapter*** ~~[KRS Chapter 635]~~.

(3) If the child is ***not*** transferred ~~[to Circuit Court]~~ under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (4), and (6), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender ~~[in Circuit Court]~~ but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.".

Signed: Representatives Charles Geveden, Richard Lewis, and Stan Cave, and Senators Robert Leeper, Tom Buford, and Henry Lackey.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Geveden moved that **SB 29**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See April 1, 1994 roll call on **SB 29** - Appendix)

SB 29, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 29**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative B. Smith moved that the Conference Committee Report on **SB 308** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to a Free Conference Committee on **SB 308**: Representatives B. Smith, Coleman, Nunn and Altman.

Representative Stumbo moved that **HB 301**, as amended by the previously adopted Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 56, Nays 29. (See April 1, 1994, roll call on - Appendix)

HB 301, as amended by the Free Conference Committee Report, was passed and the title agreed to.

A Free Conference Committee Report was filed on **SB 308**.

HB 302 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Long moved the adoption of the following Free Conference Committee Report on **HB 302**. Agreed.

The Free Conference Committee on **HB 302** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 302** with the following amendment:

On page 2, line 10, by deleting the word "are:" and inserting the word "is"; and

On page 2, line 11, after the word "Games" by deleting the ";" and inserting a "." (period); and by deleting the words "a $10,000 grant to be awarded in fiscal year"; and

On page 2, by deleting lines 12 through 16 in their entirety; and

On page 3, line 3, by deleting the amount "1,846,100" and inserting in lieu thereof the amount "2,035,100"; and

On page 3, after line 3 and before line 4, by adding the following:

"Restricted Funds	100,000	100,000;
Total	2,135,100	1,927,400"; and

On page 3, line 4, before "All", by adding the following:

"The restricted funds above represent fees to be generated pursuant to enacted legislation relating to limited liability companies and shall be used only for the operation of that program. Included in the above General Fund appropriation is $189,000 in fiscal year 1994-95 for the same program."

On page 3, line 4, after the word "all", by adding the word "other"; and

On page 3, line 26, by deleting the amount "1,532,100" and inserting the amount "1,601,800"; and by deleting the amount "1,501,000" and inserting the amount "1,574,200"; and

On page 4, line 1, by deleting the amount "1,765,300" and inserting the amount "1,835,000"; and by deleting the amount "1,724,200" and inserting the amount "1,797,400"; and

On page 4, line 10, by deleting the amount "8,375,000" and inserting the amount "8,552,600"; and by deleting the amount "8,711,400" and inserting the amount "8,896,200"; and

On page 4, line 11, by deleting the amount "12,446,600" and inserting the amount "7,676,600"; and by deleting the amount "12,517,300" and inserting the amount "7,517,300"; and

On page 4, line 13, by deleting the amount "22,024,100" and inserting the amount "17,431,700"; and by deleting the amount "22,426,300" and inserting the amount "17,611,100"; and

On page 4, after line 13 and before line 14, by inserting the following:

"Included in the above General Fund appropriation for the Asbestos Litigation Program is $138,000 in fiscal year 1994-95 and $100,000 in fiscal year 1995-96, and included in the above restricted fund appropriation is $230,000 in fiscal year 1994-95 from the Asbestos Settlement Recovery Fund for the sole purpose of litigation related expenses. Any fund balance remaining at the end of fiscal year 1993-94 for the Asbestos Litigation Program shall be carried forward into fiscal year 1994-95 and any fund balance remaining at the end of fiscal year 1994-95 shall be carried forward into fiscal year 1995-96."; and

On page 4, line 17, by deleting the amount "12,606,200" and inserting the amount "12,282,500"; and by deleting the amount "13,161,500" and inserting the amount "12,817,600"; and

On page 4, line 20, by deleting the amount "12,943,800" and inserting the amount "12,620,100"; and by deleting the amount "13,511,900" and inserting the amount "13,168,000"; and

On page 4, line 23, by deleting the amount "12,942,400" and inserting the amount "12,762,500"; and by deleting the amount "13,575,100" and inserting the amount "13,386,600"; and

On page 4, line 25, by deleting the amount "12,947,500" and inserting the amount "12,767,600"; and by deleting the amount "13,575,600" and inserting the amount "13,387,100"; and

On page 5, line 1, by deleting the amount "25,548,600" and inserting the amount "25,045,000"; and by deleting the amount "26,736,600" and inserting the amount "26,204,200"; and

On page 5, line 4, by deleting the amount "25,891,300" and inserting the amount "25,387,700"; and by deleting the amount "27,087,500" and inserting the amount "26,555,100"; and

On page 5, line 17, by deleting the amount "12,267,800" and inserting the amount "12,167,800"; and by deleting the amount "12,892,000" and inserting the amount "12,503,000"; and

On page 5, line 20, by deleting the amount "15,551,200" and inserting the amount "15,451,200"; and by deleting the amount "16,140,800" and inserting the amount "15,751,800"; and

On page 5, by deleting lines 26 through 27 in their entirety; and

On page 6, line 9, by deleting the words "for the operation and support of the Lexington" ; and by deleting lines 10 through 12 in their entirety and inserting in lieu thereof the following: "and included in the above restricted fund appropriation is $1,189,100 in fiscal year 1994-95 and $1,311,000 in fiscal year 1995-96 in support of the Lexington-Bluegrass Army Depot jobs retention and expansion project for necessary personnel, operations, and maintenance costs."; and

On page 8, line 9, by deleting the amount "10,000"; and by deleting the amount "6,171,800" and inserting the amount "5,161,800"; and by deleting the amount "6,173,500" and inserting the amount "5,673,500"; and

On page 8, line 12, by deleting the amount "5,976,800" and inserting the amount "5,966,800"; and by deleting the amount "44,610,000" and inserting the amount "43,600,000"; and by deleting the amount "44,536,700" and inserting the amount "44,036,700"; and

On page 8, by deleting lines 26 and 27 in their entirety; and

On page 9, by deleting line 1 in its entirety; and

On page 9, after line 23 and before line 24, by inserting the following:

"Notwithstanding KRS 48.185, no funds are provided from the General Fund for the Area Development Fund."; and

On page 9, by deleting lines 24 through 25 in their entirety; and

On page 10, line 1, by deleting the amount "4,750,000"; and by deleting the amount "51,247,200" and inserting the amount "46,747,200"; and by deleting the amount "58,603,700" and inserting the amount "54,103,700"; and

On page 10, line 4, by deleting the amount "1,665,700" and inserting the amount "1,740,700"; and

On page 10, line 7, by deleting the amount "1,769,100" and inserting the amount "1,844,100"; and

On page 10, after line 9 and before line 10, by inserting the following:

"Included in the above General Fund appropriation is $75,000 in fiscal year 1994-95 to support the Commission in the performance of disparity analyses consistent with the U. S. Supreme Court decision in City of Richmond v. Croson. Any unexpended balance at the end of fiscal year 1994-95 shall be carried forward for expenditure into fiscal year 1995-96."; and

On page 10, by deleting line 20 in its entirety; and

On page 10, line 21, by deleting the amount "10,407,300" and inserting the amount "9,881,100"; and by deleting the amount "10,968,800" and inserting the amount "10,442,600"; and

On page 10, by deleting line 22 in its entirety; and

On page 11, line 1, by deleting the word "surplus"; and

On page 11, line 3, after the word "reform", insert the words "and shall be deemed a necessary governmental expense subject to the conditions and procedures specified in Part III"; and

On page 15, line 6, by deleting the amount "198,400" and inserting the amount "125,300"; and by deleting the amount "207,100" and inserting the amount "130,500"; and

On page 18, line 4, by deleting the amount "16,984,200" and inserting the amount "16,271,000"; and by deleting the amount "17,954,300" and inserting the amount "17,200,400"; and

On page 18, line 6, by deleting the amount "19,047,200" and inserting the amount "18,334,000"; and by deleting the amount "20,002,800" and inserting the amount "19,248,900"; and

On page 18, line 9, before the word "VETERANS'" by inserting the word "KENTUCKY", and by deleting the words "NURSING HOME ADVISORY COMMISSION" and inserting "CENTER (NURSING HOME)"; and

On page 18, line 14, after the word "be" by inserting the words "renamed the Kentucky Veterans' Center and" ; and by deleting the words "to the" and inserting "and"; and

On page 18, line 15, by deleting "Veterans' Nursing Home Advisory Commission which will be"; and

On page 18, line 16, by deleting the words "immediately upon the effective date of" and inserting the words "on July 1, 1994."; and

On page 18, by deleting line 17 in its entirety; and

On page 18, line 22, by deleting the amount "5,030,000" and inserting the amount "270,000"; and by deleting the amount "167,927,400" and inserting the amount "161,012,600"; and by deleting the amount "180,795,500" and inserting the amount "173,775,400"; and

On page 18, line 23, by deleting the amount "74,971,200" and inserting the amount "69,775,000"; and by deleting the amount "74,716,900" and inserting the amount "69,290,700"; and

On page 18, line 25, by deleting the amount "11,130,900" and inserting the amount "6,370,900"; and by deleting the amount "292,591,600" and inserting the amount "280,480,600"; and by deleting the amount "305,105,700" and inserting the amount "292,659,400"; and

On page 19, line 3, by deleting the amount "2,473,900" and inserting the amount "2,093,900"; and by deleting the amount "2,460,600" and inserting the amount "2,135,600"; and

On page 19, after line 3 and before line 4, by inserting the following:

"Restricted Funds	400,000 (fiscal year 1994-95)	400,000 (fiscal year 1995-96)
Total	2,493,900	2,535,600"; and

On page 19, line 9, by deleting the words "General Fund dollars" and inserting the words "Restricted Funds"; and

On page 19, line 14, by deleting the amount "54,623,900" and inserting the amount "54,595,900"; and by deleting the amount "58,855,700" and inserting the amount "55,308,700"; and

On page 19, line 16, by deleting the amount "56,153,800" and inserting the amount "56,125,800"; and by deleting the amount "60,384,800" and inserting the amount "56,837,800"; and

On page 19, line 17, by deleting the amount "41,065,000" and inserting the amount "41,012,000"; and

On page 19, line 18, by deleting the amount "41,163,000" and inserting the amount "41,110,000"; and

On page 20, line 1, by deleting the amount "4,091,000" and inserting in lieu thereof the amount "572,000"; and

On page 20, line 16, by deleting the word "Bluegrass State Skills Corporation: ", and inserting after the word "The" the words "Bluegrass State Skills"; and

On page 21, line 1, by deleting the amount "1,762,000" and inserting the amount "1,970,700"; and by deleting the amount "1,798,500" and inserting the amount "1,890,000"; and

On page 22, line 1, by deleting the amount "63,134,600" and inserting the amount "62,935,300"; and by deleting the amount "67,759,600" and inserting the amount "63,979,000"; and

On page 22, line 2, by deleting the amount "1,976,000" and inserting the amount "2,376,000"; and by deleting the amount "1,981,000" and inserting the amount "2,381,000"; and

On page 22, line 4, by deleting the amount "65,512,800" and inserting the amount "65,713,500"; and by deleting the amount "70,399,500" and inserting the amount "67,019,000"; and

On page 22, line 9, by deleting the amount "1,868,284,100" and inserting the amount "1,867,594,100"; and by deleting the amount "1,921,492,800" and inserting the amount "1,920,302,800"; and

On page 22, line 12, by deleting the amount "1,528,590,100" and inserting the amount "1,539,383,700"; and

On page 22, line 13, by deleting the amount "1,572,774,200" and inserting in lieu thereof the amount "1,586,506,700"; and

On page 26, line 20, by deleting the amount "180,408,800" and inserting the amount "180,008,800", and by deleting the amount "195,456,000" and inserting the amount "195,036,000", and

On page 26, line 23, by deleting the amount" 309,319,500" and inserting the amount "308,919,500", and be deleting the amount "326,751,200" and inserting the amount "326,331,200", and

On page 26, by deleting lines 24 through 27 in their entirety; and

On page 28, line 13, by deleting the amount "136,759,800" and inserting the amount "137,949,800"; and by deleting the amount "145,387,000" and inserting the amount "147,097,000"; and

On page 28, line 16, by deleting the amount "327,056,400" and inserting the amount "328,246,400"; and by deleting the amount "335,878,700" and inserting the amount "337,588,700"; and

On page 28, line 17, by deleting the amount "31,158,600" and inserting in lieu thereof the amount "31,848,600"; and

On page 28, line 18, by deleting the amount "36,161,300" and inserting in lieu thereof the amount "37,351,300"; and

On page 28, line 22, by deleting the amount "250,000" and inserting in lieu thereof the amount "750,000";

On page 28, line 23, by deleting the amount "600,000" and inserting in lieu thereof the amount "1,100,000"; and by deleting the word "Teacher" and inserting the word "Educator"; and by inserting the words "and Retention" after the word "Recruitment"; and

On page 28, line 24, by deleting the words "The above amounts are to be supplemented by $400,000 in fiscal year 1994-95"; and

On page 28, by deleting lines 25 and 26 in their entirety; and

On page 29, line 2, by deleting the amount "2,258,411,800" and inserting the amount "2,258,511,800"; and by deleting the amount "2,351,737,900" and inserting the amount "2,351,837,900"; and

On page 29, line 5, by deleting the amount "2,581,939,700" and inserting the amount "2,582,039,700"; and by deleting the amount "2,677,865,000" and inserting the amount "2,677,965,000"; and

On page 29, line 9, by deleting the amount "4,758,400" and inserting the amount "4,829,000"; and by

deleting the amount "4,937,600" and inserting the amount "4,958,200"; and

On page 29, line 12, by deleting the amount "5,794,000" and inserting the amount "5,864,600"; and by deleting the amount "5,913,600" and inserting the amount "5,934,200"; and

On page 29, line 13, by deleting the amount "3,242,100" and inserting the amount "3,192,100"; and

On page 29, line 14, by deleting the amount "3,358,100" and inserting the amount "3,308,100" ; and

On page 29, after line 18 and before line 19, by adding the following:

"Also included in the above General Fund appropriation is $100,000 in fiscal year 1994-95 and $50,000 in fiscal year 1995-96 to support the Task Force on the Deaf and Hard of Hearing."; and

On page 30, line 2, by deleting the amount "3,191,500" and inserting the amount "2,242,200"; and

On page 30, line 4, by deleting the amount "3,510,700" and inserting the amount "2,561,400"; and

On page 30, by deleting lines 8 and 9 in their entirety; and

On page 32, line 3, by deleting the amount "1,165,000" and inserting the amount "665,000"; and

On page 32, line 6, by deleting the amount "2,015,300" and inserting the amount "1,515,300"; and

On page 32, line 9, by deleting the amount "262,900" and inserting the amount "376,400"; and by deleting the amount "274,000" and inserting the amount "341,500"; and

On page 33, line 5, by deleting the amount "160,831,600" and inserting the amount "160,515,700"; and by deleting the amount "160,651,200" and inserting the amount "159,790,000"; and

On page 33, line 8, by deleting the amount "171,540,100" and inserting the amount "171,224,200"; and by deleting the amount "170,946,300" and inserting the amount "170,085,100"; and

On page 33, line 13, by deleting the amount "24,383,000" and inserting the amount "24,191,000"; and by deleting the amount "27,983,600" and inserting the amount "28,072,900"; and

On page 33, line 17, by deleting the amount "108,904,300" and inserting the amount "108,712,300"; and by deleting the amount "70,305,900" and inserting the amount "70,395,200"; and

On page 33, line 18, by deleting the amount "265,500" and inserting the amount "73,500"; and

On page 33, line 19, by deleting the amount "1,480,000" and inserting the amount "1,097,000"; and

On page 33, line 20, by deleting the amount "6,606,000" and inserting the amount "6,214,200"; and by deleting the amount "6,573,000" and inserting the amount "6,449,300"; and

On page 33, line 22, by deleting the amount "952,700" and inserting the amount "1,425,000"; and

On page 33, line 24, by deleting the amount "10,680,700" and inserting the amount "10,676,300"; and

On page 34, after line 3 and before line 4, by inserting the following:

"The Secretary of the Finance and Administration Cabinet may request additional funding for the state banking contract as a necessary governmental expense after the contract has been issued and subject to the conditions and procedures specified in Part III."; and

On page 34, line 12, by deleting the amount "7,795,200" and inserting the amount "7,664,600"; and by deleting the amount "8,034,200" and inserting the amount "7,899,600"; and

On page 34, line 14, by deleting the amount "32,446,600" and inserting the amount "32,316,000"; and by deleting the amount "33,364,600" and inserting the amount "33,230,000"; and

On page 34, by deleting lines 15 through 17 in their entirety; and

On page 35, line 8, by deleting the amount "49,211,700" and inserting the amount "48,889,100"; and by deleting the amount "53,282,300" and inserting the amount "53,237,000"; and

On page 35, line 12, by deleting the amount "243,865,400" and inserting the amount "243,542,800"; and by deleting the amount "209,242,500" and inserting the amount "209,197,200"; and

On page 36, line 5, by deleting the amount "8,948,300" and inserting the amount "9,105,700"; and by deleting the amount "9,145,600" and inserting the amount "9,286,900"; and

On page 36, line 7, by deleting the amount "36,123,400" and inserting the amount "36,280,800"; and by deleting the amount "37,431,200" and inserting the amount "37,572,500"; and

On page 36, line 10, after the word "grants." by deleting the remaining language on line 10; and

On page 36, by deleting lines 11 through 13 in their entirety; and

On page 36, line 14, by deleting the words, "college in Kentucky."; and

On page 37, line 5, by deleting the amount "54,219,000" and inserting the amount "53,906,000"; and by deleting the amount "55,965,100" and inserting the amount "55,351,200"; and

On page 37, line 8, by deleting the amount "143,317,400" and inserting the amount "143,004,400"; and by deleting the amount "148,104,900" and inserting the amount "147,491,000"; and

On page 37, line 10, by deleting the amount "6,126,400" and inserting the amount "5,821,500"; and

On page 38, line 8, by deleting the amount "38,762,500" and inserting the amount "38,606,500"; and by deleting the amount "39,867,300" and inserting the amount "39,596,700"; and

On page 38, line 11, by deleting the amount "79,928,100" and inserting the amount "79,772,100"; and by deleting the amount "81,294,200" and inserting the amount "81,023,600"; and

On page 38, line 13, by deleting the amount "3,730,200" and inserting the amount "3,615,600"; and

On page 38, line 14, by deleting the word "a"; and

On page 38, line 18, by deleting the amount "30,385,500" and inserting the amount "30,310,100"; and

On page 38, line 21, by deleting the amount "80,395,100" and inserting the amount "80,319,700"; and

On page 38, line 23, by deleting the amount "5,239,400" and inserting the amount "5,164,000"; and

On page 39, line 1, by deleting the amount "245,565,800" and inserting the amount "243,334,400"; and by deleting the amount "255,523,700" and inserting the amount "250,194,200"; and

On page 39, line 4, by deleting the amount "754,755,800" and inserting the amount "752,524,400"; and by deleting the amount "787,733,200" and inserting the amount "782,403,700"; and

On page 39, line 5, by deleting the amount "17,257,900" and inserting the amount "14,946,500"; and

On page 39, line 6, by deleting the amount "20,316,600" and inserting the amount "14,957,100"; and

On page 39, by deleting lines 9 through 20 in their entirety; and

On page 39, line 23, by deleting the amount "78,053,600" and inserting the amount "75,739,900"; and

On page 39, line 26, by deleting the amount "171,236,500" and inserting the amount "168,922,800"; and

On page 40, line 1, by deleting the amount "13,791,900" and inserting the amount "11,478,200"; and

On page 40, line 6, by deleting the amount "137,799,200" and inserting the amount "137,769,200"; and by deleting the amount "141,686,800" and inserting the amount "141,656,800"; and

On page 40, line 9, by deleting the amount "346,726,600" and inserting the amount "346,696,600"; and by deleting the amount "358,305,700" and inserting the amount "358,275,700"; and

On page 40, line 23, by deleting the amount "51,503,300" and inserting the amount "51,131,300"; and by deleting the amount "53,418,500" and inserting the amount "52,535,800"; and

On page 40, line 26, by deleting the amount "113,701,800" and inserting the amount "113,329,800"; and by deleting the amount "117,886,800" and inserting the amount "117,004,100"; and

On page 41, line 1, by deleting the amount "4,838,700" and inserting the amount "4,328,000"; and

On page 41, line 6, by deleting the amount "716,808,800" and inserting the amount "713,706,400"; and by deleting the amount "745,054,500" and inserting the amount "735,538,700"; and

On page 41, line 7, by deleting the amount "957,241,300" and inserting the amount "957,398,700"; and by deleting the amount "999,238,400" and inserting the amount 999,379,700"; and

On page 41, line 9, by deleting the amount "1,846,237,500" and inserting the amount "1,843,292,500"; and by deleting the amount "1,918,582,700" and inserting the amount "1,909,208,200"; and

On page 41, line 15, by deleting the amount "27,497,200" and inserting the amount "48,440,600"; and by deleting the amount "32,645,500" and inserting the amount "49,333,100"; and

On page 41, line 16, by deleting the amount "35,448,800" and inserting the amount "20,757,300"; and by deleting the amount "38,415,500" and inserting the amount "22,190,200"; and

On page 41, line 17, by deleting the amount "109,727,900" and inserting the amount "94,382,600"; and by deleting the amount "120,247,000" and inserting the amount "95,448,900"; and

On page 41, line 18, by deleting the amount "172,673,900" and inserting the amount "163,580,500"; and by deleting the amount "191,308,000" and inserting the amount "166,972,200"; and

On page 42, line 9, by deleting the amount "73,895,900" and inserting the amount "88,221,800"; and by deleting the amount "82,857,200" and inserting the amount "91,241,200"; and

On page 42, line 11, by deleting the amount "170,216,800" and inserting the amount "187,154,400"; and by deleting the amount "173,268,000" and inserting the amount "186,739,600"; and

On page 42, line 12, by deleting the amount "248,939,700" and inserting the amount "280,203,200"; and by deleting the amount "265,056,400" and inserting the amount "286,912,000"; and

On page 42, by deleting lines 16 through 22 in their entirety;

On page 42, by deleting line 27 in its entirety;

On page 43, by deleting lines 1 through 11 in their entirety;

On page 43, line 14, by deleting the amount "4,258,000" and inserting the amount "2,758,000"; and by deleting the amount "3,560,500" and inserting the amount "2,060,500"; and

On page 43, line 15, by deleting the amount "432,700" and inserting the amount "1,932,700"; and by deleting the amount "454,400" and inserting the amount "1,954,400"; and

On page 43, line 25, by deleting the amount "21,746,500" and inserting the amount "21,513,400"; and by deleting the amount "22,362,200" and inserting the amount "22,117,600"; and

On page 43, line 27, by deleting the amount "26,489,400" and inserting the amount "26,256,300"; and by deleting the amount "27,336,600" and inserting the amount "27,092,000"; and

On page 44, line 1, by deleting the amount "51,635,800" and inserting the amount "51,169,600"; and by deleting the amount "53,098,700" and inserting the amount "52,609,500"; and

On page 46, line 1, by deleting the amount "47,568,800" and inserting the amount "47,069,500"; and by deleting the amount "48,442,800" and inserting the amount "47,966,000"; and

On page 46, line 2, by deleting the amount "8,724,400" and inserting in lieu thereof the amount "8,924,400"; and

On page 46, line 3, by deleting the amount "119,376,300" and inserting the amount "120,875,800"; and by deleting the amount "120,036,500" and inserting the amount "121,569,400"; and

On page 46, line 4, by deleting the amount "175,481,300" and inserting the amount "176,481,500"; and by deleting the amount "177,203,700" and inserting the amount "178,459,800"; and

On page 46, line 8, by deleting the amount "126,958,500" and inserting the amount "127,039,400"; and by deleting the amount "137,191,800" and inserting the amount "138,347,500"; and

On page 46, line 9, by deleting the amount "67,224,600" and inserting the amount "70,656,700"; and by deleting the amount "71,814,200" and inserting the amount "72,735,400"; and

On page 46, line 10, by deleting the amount "24,493,400" and inserting the amount "23,943,400"; and by

deleting the amount "24,089,300" and inserting the amount "23,539,200"; and

On page 46, line 11, by deleting the amount "218,676,500" and inserting the amount "221,639,500"; and by deleting the amount "233,095,300" and inserting the amount "234,622,100"; and

On page 46, line 14, by deleting the amount "129,522,400" and inserting the amount "136,540,700"; and by deleting the amount "136,185,000" and inserting the amount "143,455,000"; and

On page 46, line 15, by deleting the amount "7,238,400" and inserting the amount "7,208,400"; and

On page 46, line 16, by deleting the amount "109,886,800" and inserting the amount "139,846,000"; and by deleting the amount "113,112,200" and inserting the amount "143,640,600"; and

On page 46, line 17, by deleting the amount "244,154,400" and inserting the amount "281,131,900"; and by deleting the amount "256,535,600" and inserting the amount "294,304,000"; and

On page 46, line 26, by deleting the amount "26,730,100" and inserting the amount "24,661,200"; and by deleting the amount "26,535,800" and inserting the amount "26,737,800"; and

On page 46, line 27, by deleting the amount "6,656,300" and inserting the amount "5,917,200"; and by deleting the amount "7,024,200" and inserting the amount "5,904,000"; and

On page 47, line 1, by deleting the amount "16,221,400" and inserting the amount "15,612,900"; and by deleting the amount "16,454,400" and inserting the amount "15,797,600"; and

On page 47, line 2, by deleting the amount "49,607,800" and inserting the amount "46,191,300"; and by deleting the amount "50,014,400" and inserting the amount "48,439,400"; and

On page 47, line 3, by deleting the amount "11,870,000" and inserting in lieu thereof the amount "10,968,000"; and

On page 47, line 4, by deleting the amount "12,162,000" and inserting in lieu thereof the amount "11,902,000"; and

On page 47, line 17, by deleting the amount "102,400" and inserting the amount "98,700"; and by deleting the amount "180,000" and inserting the amount "103,500"; and

On page 47, line 18, by deleting the amount "3,102,400" and inserting the amount "3,098,700"; and by deleting the amount "3,180,000" and inserting the amount "3,103,500"; and

On page 47, line 21, by deleting the amount "885,214,500" and inserting the amount "908,625,600"; and by deleting the amount "978,303,300" and inserting the amount "993,625,100"; and

On page 47, line 22, by deleting the amount "320,111,200" and inserting the amount "303,926,300"; and by deleting the amount "332,291,700" and inserting the amount "317,112,700"; and

On page 47, line 23, by deleting the amount "2,412,559,600" and inserting the amount "2,410,447,500"; and by deleting the amount "2,543,748,500" and inserting the amount "2,540,080,700"; and

On page 47, line 24, by deleting the amount "3,617,885,300" and inserting the amount "3,622,999,400"; and by deleting the amount "3,854,343,500" and inserting the amount "3,850,818,500"; and

On page 48, line 1, before the term "1994-95", by adding a new column heading "1993-94"; and

On page 48, line 2, after the word "Fund", by inserting the amount "500,000" in the fiscal year 1993-94 column; and

On page 48, line 2, by deleting the amount "2,518,200" and inserting the amount "2,278,200"; and by deleting the amount "3,016,100" and inserting the amount "2,276,100"; and

On page 48, line 5, after the word "Total", by inserting the amount "500,000" in the fiscal year 1993-94 column; and by deleting the amount "12,853,400" and inserting the amount "12,613,400"; and by deleting the amount "13,053,900" and inserting the amount "12,313,900"; and

On page 48, after line 5 and before line 6, by adding the following:

"Included in the above General Fund appropriation is $500,000 in fiscal year 1993-94 to Justice

Administration to support the Charitable Gaming Commission. Any funds not expended by June 30, 1994, shall not lapse, and shall carry forward to fiscal year 1994-95."; and

On page 48, line 8, by deleting the amount "39,521,000" and inserting the amount "39,237,200"; and by deleting the amount "41,516,800" and inserting the amount "40,779,000"; and

On page 48, line 12, by deleting the amount "88,074,300" and inserting the amount "87,790,500"; and by deleting the amount "92,041,700" and inserting the amount "91,303,900"; and

On page 48, line 14, by deleting the word "Also"; and

On page 48, by deleting line 15 and 16 in its entirety; and

On page 48, line 27, by deleting the amount "16,677,300" and inserting the amount "18,677,300"; and by deleting the amount "17,266,300" and inserting the amount "18,766,300"; and

On page 49, line 17, after the word "issued.", by adding the following: "The carry forward of restricted funds from the insurance surcharge for the Kentucky Law Enforcement Foundation Program Fund and for any operations of the Department for Criminal Justice Training is limited to a fund balance reserve amount not to exceed $2,000,000 at the end of each fiscal year.

In addition, $2,000,000 in fiscal year 1994-95 and $1,500,000 in fiscal year 1995-96 is transferred from the Kentucky Law Enforcement Foundation Program Fund to the General Fund as provided in Part V. Notwithstanding KRS 136.392, the power of the Secretary of the Revenue Cabinet to adjust the insurance surcharge rate is suspended."; and

On page 49, line 21, after "Fund", by inserting the amount "500,000" in the fiscal year 1993-94 column; and

On page 49, line 21, by deleting the amount "42,039,200" and inserting the amount "41,515,400"; and by deleting the amount "44,532,900" and inserting the amount "43,055,100"; and

On page 49, line 22, by deleting the amount "22,255,200" and inserting the amount "24,255,200"; and by deleting the amount "22,725,500" and inserting the amount "24,225,500"; and

On page 49, line 25, by deleting the amount "3,000,000" and inserting the amount "3,500,000"; and by deleting the amount "117,605,000" and inserting the amount "119,081,200"; and by deleting the amount "122,361,900" and inserting the amount "122,384,100"; and

On page 50, line 21, by deleting the "128,555,400" and inserting the amount "128,155,400"; and

On page 50, line 24, by deleting the amount "140,399,700" and inserting the amount "139,999,700"; and

On page 50, line 27, by deleting the amount "36,392,200" and inserting the amount "36,333,500"; and by deleting the amount "40,019,500" and inserting the amount "39,369,300"; and

On page 51, line 3, by deleting the amount "37,103,700"; and by deleting the amount "40,731,000" and inserting the amount "37,045,000"; and

On page 51, line 3, by inserting the amount "40,080,800" in the fiscal year 1995-96 far right column; and

On page 51, line 7, after "KRS", by adding the following: "196.160 (2), funds are provided for participation in the hazardous duty retirement program pursuant to KRS 61.592 for jails inspectors and sex offender counselors in community-based correctional programs."; and

On page 51, line 7, by deleting the words "431.215, funds are provided to begin payment to local jails"; and

On page 51, by deleting line 8 in its entirety; and

On page 52, line 1, by deleting the amount "194,443,500" and inserting the amount "194,384,800"; and by deleting the amount "208,533,500" and inserting the amount "207,483,300"; and

On page 52, line 4, by deleting the amount "208,607,900" and inserting the amount "208,549,200"; and by deleting the amount "221,089,800" and inserting the amount "220,039,600"; and

On page 52, line 7, by inserting the amount "500,000" in the fiscal year 1993-94 column; and

On page 52, line 7, by deleting the amount "236,482,700" and inserting the amount "235,900,200"; and by deleting the amount "253,066,400" and inserting the amount "250,538,400"; and

On page 52, line 8, by deleting the amount "35,004,100" and inserting the amount "37,004,100"; and by deleting the amount "33,853,000" and inserting the amount "35,353,000"; and

On page 52, line 11, by deleting the amount "3,000,000" and inserting the amount "3,500,000"; and by deleting the amount "326,212,900" and inserting the amount "327,630,400"; and by deleting the amount "343,451,700" and inserting the amount "342,423,700"; and

On page 52, line 16, by deleting the amount "418,800" and inserting the amount "211,800"; and by deleting the amount "428,600" and inserting the amount "221,600"; and

On page 52, line 17, by deleting the amount "3,131,300" and inserting the amount "3,219,300"; and by deleting the amount "3,104,900" and inserting the amount "3,196,900"; and

On page 52, line 18, by deleting the amount "3,550,100" and inserting the amount "3,431,100"; and by deleting the amount "3,533,500" and inserting the amount "3,418,500"; and

On page 52, line 22, by deleting the amount "149,801,400" and inserting the amount "150,681,400"; and by deleting the amount "166,693,600" and inserting the amount "167,410,600"; and

On page 52, line 24, by deleting the amount "154,312,700" and inserting the amount "155,192,700"; and by deleting the amount "171,343,300" and inserting the amount "172,060,300; and

On page 52, line 27, by deleting the amount "8,857,200" and inserting the amount "9,757,200"; and by deleting the amount "8,947,200" and inserting the amount "9,822,200"; and

On page 53, line 25, by deleting the amount "2,130,400" and inserting the amount "1,923,400"; and by deleting the amount "2,173,500" and inserting the amount "1,966,500"; and

On page 53, line 26, by deleting the amount "161,977,900" and inserting the amount "163,845,900"; and by deleting the amount "178,936,700" and inserting the amount "180,620,700"; and

On page 54, line 1, by deleting the amount "167,096,000" and inserting the amount "168,757,000"; and by deleting the amount "184,206,000" and inserting the amount "185,683,000"; and

On page 54, after line 24 and before line 25, by inserting the following:

"Included in the General Fund appropriation is $181,400 in fiscal year 1994-95 and $188,300 in fiscal year 1995-96, and included in the restricted funds appropriation is $50,000 each fiscal year for the Kentucky Recycling Brokerage Authority."; and

On page 55, line 21, after "appropriated", by inserting the words "subject to the conditions and procedures specified in Part III"

On page 56, line 3, by deleting the amount "3,837,900" and inserting the amount "3,637,900"; and

On page 56, line 6, by deleting the amount "4,557,300" and inserting the amount "4,357,300"; and

On page 56, line 10, by deleting the amount "45,913,800" and inserting the amount "45,713,800"; and

On page 56, line 13, by deleting the amount "125,476,400" and inserting the amount "125,276,400"; and

On page 56, line 17, by deleting the word "Fund" and inserting the word "Funds"; and

On page 57, line 1, by deleting the amount "9,546,200" and inserting the amount "10,546,200"; and by deleting the amount "9,570,500" and inserting the amount "10,570,500"; and

On page 57, line 7, by deleting the amount "46,799,700" and inserting the amount "46,599,700"; and

On page 57, line 8, by deleting the amount "38,007,300" and inserting the amount "39,007,300"; and by deleting the amount "37,915,800" and inserting the amount "38,915,800"; and

On page 57, line 10, by deleting the amount "135,280,500" and inserting the amount "136,280,500"; and by deleting the amount "137,157,300" and inserting the amount "137,957,300"; and

On page 58, line 12, by deleting the amount "23,809,800" and inserting the amount "24,161,500"; and by deleting the amount "23,949,700" and inserting the amount "24,405,400"; and

On page 58, line 13, by deleting the amount "26,685,400" and inserting the amount "27,037,100"; and by deleting the amount "27,016,000" and inserting the amount "27,471,700"; and

On page 59, line 1, by deleting the amount "3,000,000" and inserting the amount "2,000,000"; and by deleting the amount "2,500,000" and inserting the amount "2,000,000"; and

On page 59, line 2, by deleting the words "Any amount available above the reserve balance on June 30 of fiscal year" and inserting the words "Restricted funds of $2,750,000 each year shall be transferred to General Fund surplus as provided in Part V, Funds Transfer."; and

On page 59, by deleting lines 3 through 5 in their entirety; and

On page 59, line 6, by deleting the word "1995-96."; and

On page 59, line 7, after "suspended." by inserting the following: "The Secretary of Revenue shall adjust the insurance premium surcharge rate to conform with this section."; and

On page 59, line 26, by deleting the words "oil/gas drill permit-$100"; and

On page 60, line 4, after the word "legislation.", by adding the following: "The oil/gas drill permit fee is increased from $100 to $300 contingent on the passage of enabling legislation."; and

On page 60, line 9, by deleting the word "Fund", and inserting the word "Funds"; and

On page 61, line 15, by deleting the amount "56,681,300" and inserting the amount "57,033,000"; and by deleting the amount "58,221,400" and inserting the amount "58,677,100"; and

On page 61, line 17, by deleting the amount "92,604,000" and inserting the amount "92,955,700"; and by deleting the amount "95,782,100" and inserting the amount "96,237,100"

On page 61 line 22, by deleting the amount "24,613,900" and inserting the amount "25,174,500"; and

On page 61, line 24, by deleting the amount "24,670,000" and inserting the amount "25,230,600"; and

On page 61, line 25, by deleting "(1)(b)"; and

On page 62, line 9, by deleting the amount "14,886,000" and inserting the amount "17,419,700"; and by deleting the amount "15,817,800" and inserting the amount "17,853,800"; and

On page 62, line 11, by deleting the amount "2,876,800" and inserting the amount "1,218,300"; and by deleting the amount "2,842,200" and inserting the amount "1,239,500"; and

On page 62, line 13, by deleting the amount "19,022,800" and inserting the amount "19,898,000"; and by deleting the amount "19,966,900" and inserting the amount "20,400,200"; and

On page 62, line 18, by deleting the words "Included in the above restricted funds appropriation is $1,658,900 in"; and

On page 62, by deleting lines 19 through 21 in their entirety;

On page 62, line 24, by deleting the amount "5,234,900" and inserting the amount "5,357,700"; and

On page 62, line 27, by deleting the amount "6,854,300" and inserting the amount "6,977,100"; and

On page 63, line 9, by deleting the amount "44,734,800" and inserting the amount "47,951,900"; and by deleting the amount "46,711,000" and inserting the amount "48,747,000"; and

On page 63, line 11, by deleting the amount "4,297,300" and inserting the amount "2,638,200"; and by deleting the amount "4,460,800" and inserting the amount "2,858,100"; and

On page 63, line 13, by deleting the amount "50,547,100" and inserting the amount "52,105,700"; and by deleting the amount "52,738,800" and inserting the amount "53,172,100"; and

On page 63, line 17, by deleting the amount "170,824,100" and inserting the amount "167,844,200"; and by deleting the amount "187,943,600" and inserting the amount "184,749,800"; and

On page 63, line 20, by deleting the amount "44,734,800" and inserting the amount "47,951,900"; and by deleting the amount "46,711,000" and inserting the amount "48,747,000"; and

On page 63, line 22, by deleting the amount "175,121,400" and inserting the amount "170,483,000"; and by deleting the amount "192,404,400" and inserting the amount "187,607,900"; and

On page 63, line 24, by deleting the amount "221,371,200" and inserting the amount "219,949,900"; and by deleting the amount "240,682,400" and inserting the amount "237,921,900"; and

On page 64, line 4, by deleting the words "these funds" and inserting the words "the additional funds"; and

On page 64, line 13, after the word "and", by inserting the word "to"; and

On page 64, line 19, after the number "$2,030,000", by deleting the word "in"; and

On page 64, line 24, by deleting the amount "23,541,200" and inserting the amount "22,860,200"; and by deleting the amount "33,069,700" and inserting the amount "23,176,700"; and

On page 64, line 26, by deleting the amount "65,243,600" and inserting the amount "64,562,600"; and by deleting the amount "76,103,700" and inserting the amount "66,210,700"; and

On page 65, line 2, by deleting the amount "319,000" and inserting the amount "53,000"; and by deleting the amount "749,000" and inserting the amount "53,000"; and

On page 65, line 3, by deleting the following: "The General Fund appropriation also includes"; and

On page 65, by deleting lines 4 through 10 in their entirety; and

On page 65, line 20, by deleting the amount "10,959,900" and inserting the amount "8,584,900"; and

On page 65, line 22, by deleting the amount "31,718,100" and inserting the amount "29,343,100"; and

On page 65, by deleting line 25 in its entirety; and

On page 65, line 26, by deleting the words " debt service authorization for the project identified in Part II." and;

On page 66, line 11, by deleting the amount "41,836,300" and inserting the amount "41,155,300"; and by deleting the amount "54,042,900" and inserting the amount "41,774,900"; and

On page 66, line 14, by deleting the amount "131,458,400" and inserting the amount "130,777,400"; and by deleting the amount "146,248,800" and inserting the amount "133,980,800"; and

On page 67, line 12, by deleting the amount "2,932,200" and inserting the amount "932,200"; and by deleting the amount "2,939,600" and inserting the amount "939,600"; and

On page 67, line 15, by deleting the amount "6,828,000" and inserting the amount "4,828,000"; and by deleting the amount "6,845,900" and inserting the amount "4,845,900"; and

On page 67, by deleting lines 16 through 19 in their entirety; and

On page 69, line 7, by inserting after "1994-95" the words "and in fiscal year 1995-96"; and

On page 72, line 9, by deleting the amount "6,125,800" and inserting the amount "4,125,800"; and by deleting the amount "5,160,200" and inserting the amount "3,160,200"; and

On page 72, line 14, by deleting the amount "1,287,259,500" and inserting the amount "1,285,259,500"; and by deleting the amount "1,314,649,600" and inserting the amount "1,312,649,600"; and

On page 73, line 27, by deleting the amount "7,401,000" and inserting the amount "7,274,800"; and by deleting the amount "9,454,800" and inserting the amount "7,318,800"; and

On page 74, line 3, by deleting the amount "12,574,900" and inserting the amount "12,448,700"; and by deleting the amount "14,402,200" and inserting the amount "12,266,200"; and

On page 74, line 6, by deleting the words "Debt service of $761,000 in fiscal year 1995-96 is provided for the"; and

On page 74, by deleting lines 7 through 12 in their entirety; and

On page 75, line 5, by deleting the amount "92,598,400" and inserting the amount "92,472,200"; and by deleting the amount "102,251,000" and inserting the amount "100,115,000"; and

On page 75, line 8, by deleting the amount "209,769,400" and inserting the amount "209,643,200"; and by deleting the amount "221,807,500" and inserting the amount "219,671,500"; and

On page 75, by deleting lines 26 through 27 in their entirety; and

On page 76, by deleting lines 1 through 7 in their entirety; and

On page 76, line 8, by deleting the number "2" and inserting the number "1"; and

On page 76, line 9, by deleting the number "3" and inserting the number "2"; and

On page 76, line 11, by deleting the amount "11,000,000" and inserting the amount "6,000,000"; and

On page 76, line 13, by deleting the word "are" and inserting the word "is authorized for"; and by deleting the words "projects: Lake Reba Community Center - $2,000,000" and inserting the words "project: Bluegrass Army Depot - $1,000,000"; and

On page 76, by deleting lines 14 and 15 in their entirety; and

On page 77, by deleting lines 13 through 15 in their entirety; and

On page 77, by deleting lines 21 through 25 in their entirety; and renumbering accordingly; and

On page 78, line 3, by deleting the amount "77,500,000" and inserting the amount "66,830,000"; and

On page 78, line 14, by deleting the amount "10,000,000" and inserting the amount "15,000,000"; and

On page 78, by deleting line 19 and 20 in their entirety; and

On page 78, line 24, by deleting the words "at such time"; and

On page 79, by deleting lines 5 through 8 in their entirety; and

On page 79, line 9, by deleting the letter "e" and inserting the letter "c"; and

On page 79, line 10, by deleting the amount "3,688,600" and inserting the amount "1,000,000"; and by deleting the amount "2,000,000" and inserting the amount "1,000,000"; and

On page 79, line 11, by deleting the letter "f" and inserting the letter "d"; and

On page 79, line 13, by deleting the letter "g" and inserting the letter "e"; and

On page 79, line 15, by deleting the letter "h" and inserting the letter "f"; and

On page 79, by deleting line 16 in its entirety; and

On page 79, by deleting line 18 in its entirety; and

On page 79, after line 18, and before line 19, by inserting the following:

"The Secretary of Finance and Administration is authorized to allocate funds up to $460,000 in fiscal year 1994-95 and up to $700,000 in fiscal year 1995-96 from the Capital Construction Emergency, Repair, Maintenance and Replacement Fund for the Central State Hospital Project."; and

On page 79, line 19, by deleting the letter "i" and inserting the letter "g"; and

On page 79, line 26, by deleting the words "at such time"; and

On page 81, by deleting lines 3 through 9 in their entirety; and

On page 81, line 10, by deleting "b" and inserting "a"; and

On page 81, line 12, by deleting "c" and inserting "b"; and

On page 82, after line 10 and before line 11, by inserting the word "General Fund"; and by inserting the amount "157,000" in the fiscal year 1994-95 column; and

On page 82, after line 11 and before line 12, by inserting the word "Total"; and by inserting the amount "3,900,000" in the fiscal year 1994-95 column; and

On page 82, after line 12 and before line 13, by inserting the word "General Fund"; and by inserting the amount "220,000" in the fiscal year 1994-95 column; and

On page 82, after line 13 and before line 14, by inserting the word "Total"; and by inserting the amount "4,619,000" in the fiscal year 1994-95 column; and

On page 83, by deleting lines 3 through 5 in their entirety; and

On page 83, after line 18 and before line 19, by inserting the following:

"b. Computer Processor

Restricted Funds 275,000" (fiscal year 1994-95 column); and

On page 85, by deleting lines 2 through 5 in their entirety; and

On page 88, by deleting lines 2 through 7 in their entirety; and renumbering accordingly; and

On page 89, after line 8 and before line 9, by inserting the following:

"r. ADA Compliance, Elevator, Doyle Fine Arts

Restricted Funds 250,000" (fiscal year 1995-96 column); and

On page 90, by deleting lines 25 through 27 in their entirety; and

On page 91, by deleting line 1 in its entirety; and

On page 91, by deleting lines 3 through 9 in their entirety; and renumbering accordingly; and

On page 91, by deleting lines 16 and 17 in their entirety; and renumbering accordingly; and

On page 91, by deleting lines 24 and 25 in their entirety; and renumbering accordingly; and

On page 101, by deleting lines 17 through 18 in their entirety; and renumbering accordingly; and

On page 101, by deleting lines 21 through 25 in their entirety; and renumbering accordingly; and

On page 112, by deleting lines 1 through 10 in their entirety: and

On page 113, by deleting line 27 in its entirety; and

On page 114, by deleting lines 1 through 3 in their entirety; and renumbering accordingly; and

On page 126, by deleting lines 11 through 12 in their entirety; and renumbering accordingly; and

On page 126, by deleting lines 23 through 24 in their entirety; and renumbering accordingly; and

On page 127, by deleting lines 4 through 5 in their entirety; and renumbering accordingly; and

On page 128, by deleting line 13 through 27 in their entirety; and renumbering accordingly; and

On page 129, by deleting line 1 in its entirety; and

On page 129, line 27, by deleting the words "15 Non-Medical Group Homes", and inserting in lieu thereof "Hazelwood Project"; and

On page 130, by deleting lines 17 through 18 in their entirety; and renumbering accordingly; and

On page 130, by deleting lines 23 through 24 in their entirety; and

On page 133, after line 17 and before line 18, by inserting in the column under the word "General Fund" the following:

"Restricted Funds -

Federal Funds" ; and

On page 134, line 12, by deleting the words "at such time"; and

On page 135, by deleting lines 9 through 12 in their entirety; and renumbering accordingly; and

On page 136, by deleting lines 11 through 12 in their entirety; and renumbering accordingly; and

On page 136, by deleting lines 22 through 27 in their entirety; and renumbering accordingly; and

On page 137, line 1, through page 142, line 16, by deleting it in their entirety; and

On page 144, by deleting lines 7 through 15 in their entirety;

On page 147, line 23, after the word "which" by inserting the words "the General Assembly appropriates"; and

On page 147, line 24, by inserting a comma after the word "premiums"; and

On page 147, line 25, by deleting the word "such" and inserting the word "the"; and by deleting the words "is appropriated by the General Assembly"; and

On page 150, line 25, by deleting the word "Proposed" and inserting the words "The State Budget Director may recommend proposed"; by deleting the word "the" and inserting the word "a"; by deleting the word "appropriations" and inserting the word "appropriation"; and by deleting the words "sums in this Act to be"; and

On page 150, line 26, by deleting the words "authorized by the State Budget Director, or designee, shall be transmitted" and inserting the words "in the State/Executive branch budget bill"; and

On page 150, line 27, by deleting the word "work"; and

On page 151, line 1, by deleting the word "work"; and

On page 151, line 2, by inserting the word "the" after the word "of"; and by deleting the word "appropriations" and inserting the word "appropriation"; and

On page 151, line 3, by deleting the word "purposes" and inserting the word "purpose"; by deleting the word "appropriations" and inserting the word "appropriation"; by inserting the word "the" before the word "enacted"; by inserting before the word "budget" the words "State/Executive branch"; by inserting after the word "budget" the word "bill"; and by deleting the words "the provisions"; and

On page 151, line 4, by deleting the words "of this Act or statutes, and"; after the word "memorandum" by inserting the words "and any other relevant statute"; and before the word "Committee" by inserting the words "Interim Joint"; and

On page 151, line 5, before the word "disapproves" by inserting the words "on Appropriations and Revenue"; and by deleting the words "appropriated sum" and inserting the word "appropriation"; and

One page 151, line 8, before the word "days" by inserting "(30)"; and

One page 151, line 9, by deleting the word "committee" and inserting the word "Committee"; and

On Page 151, line 17, by deleting the words "is empowered to" and inserting the word "may"; and

On page 151, line 22, by deleting the word "Executive" and inserting the word "State/Executive"; and

On page 152, line 2, by deleting the words "the Secretary of the Finance and Administration Cabinet,"; and

On page 152, line 4, by deleting the word "such" and inserting the word "the"; and by inserting after the word "moneys," the words "the Secretary of the Finance and Administration Cabinet"; and by deleting the words ", upon" and inserting in lieu thereof the words "the credit and expenditure of the funds for statutory purposes, subject to the prior"; and

On page 152, line 5, by inserting a comma after the word "Director"; and

On page 152, lines 6 and 7, by deleting the words ", the credit and expenditure of such funds for statutory purposes"; and

On page 152, line 14, before the word "respect" by deleting the word "the"; and

On page 152, line 15, by deleting the word "or" and inserting the word "and"; and

On page 152, line 16, by deleting the word "receipts"; and before the word "appropriations" by inserting the words "revisions to"; and

On page 152, line 17, by deleting the words "in the event of this occurrence,"; and

On page 152, line 18, by deleting the word "must" and inserting the word "shall"; by deleting the word "excess"; and by deleting the word "receipts"; and

On page 153, line 10, by deleting the word "and" and inserting a comma after the word "subsection"; and

On page 153, line 11, by deleting the word "thereof"; and by deleting the word "and/or" and inserting the word "and"; and

On page 153, line 12, by inserting a period after the word "law"; and by deleting the words "and if" and inserting "If"; and by deleting the words "thereof shall be"; and

On page 153, line 13, by deleting the word "held" and inserting the words "is found by a court of competent jurisdiction in a final, unappealable order to be"; and

On page 154, line 25, by deleting the words "In the event that" and inserting the word "If"; and

On page 155, line 1, by deleting the words "In the event that" and inserting the word "If"; and

On page 155, line 8, by deleting the words "in the event that" and inserting the word "if"; and

On page 156, line 12, by deleting the amount "51,500,000" and inserting the amount "56,500,000"; and

On page 156, line 13, by deleting the amount "30,000,000" and inserting the amount "10,000,000"; and

On page 156, line 17, by deleting the word "In"; and

On page 156, by deleting lines 18 through 20 in their entirety; and

On page 156, line 22, after the word "except" by inserting the words "upon specific authorization by the General Assembly in an extraordinary or regular session, and";

On page 157, line 6, by deleting the words "general appropriations bills" and inserting the words "branch budget bills"; and

On page 157, line 20, by deleting "48.160" and inserting "48.600"; and

On page 157, line 27, by deleting the words "general appropriations bills" and inserting the words "branch budget bills"; and

On page 158, line 14, by deleting the word "The", and inserting the word "the"; and by inserting the following before the first "the": "Except as otherwise provided in this Act,"; and

On page 158, line 27, by deleting "\Corrections"; and

On page 160, line 5, by deleting the word "The" and inserting the word "the"; and by inserting the following before the first "the": "Notwithstanding the provisions of KRS 48.130 and 48.600, or as otherwise provided in this Act,"; and

On page 160, line 20, by deleting the word "do" and inserting the word "shall"; and by deleting the words "To the extent"; and

On page 160, line 21, by deleting the word "that" and inserting the word "If"; and

On page 160, line 22, by deleting the word "When" and inserting the word "If; and

On page 160, line 26, by inserting a "." (period) after the word "subtotal"; and deleting the comma; and

On page 160, line 27, by deleting the word "and, if"; and inserting the word "If"; and by deleting the word "paragraph" and inserting the word "section"; and by inserting after the word "Reviser" the words "of Statutes"; and

On page 161, after line 11 and before line 12, by inserting the following:

"19. Within thirty (30) days of the close of each fiscal quarter, the secretary of the Finance and Administration Cabinet shall report to the head of each branch budget the actual revenue receipts from the just concluded quarter, as well as the projected revenue receipts for the next three (3) fiscal quarters. The report shall include a comparison with the estimated revenue receipts upon which the branch budget bills were developed pursuant to KRS 48.120 and shall note any potential consequences to the Commonwealth's fiscal condition as a result of actual or projected revenue receipts that differ from those used in the development of the branch budget bills."; and

On page 162, by deleting lines 7 through 9 in their entirety; and renumbering accordingly; and

On page 162, line 15, by deleting the word "net" and inserting the word "exclusive"; and by inserting after the word "of" the words "personnel in the budget units of"; and

On page 162, line 19, after the word "Fund." delete the words "Permanent full-time personnel in the Transportation Cabinet who are in whole,"; and

On page 162, by deleting lines 20 through 24; and

On page 162, line 25, by deleting the words "time personnel shall be terminated from the Central Office"; and

On page 163, line 16, by deleting the word "Professional"; and by inserting the word "Foundation" after the word "Firefighters"; and

On page 163, line 17, by inserting "2,750,000" in the fiscal year 1994-95 column; and by deleting the amount "500,000" and inserting the amount "2,750,000"; and

On page 163, after line 17 and before line 18 by inserting the following:

"5. Kentucky Law Enforcement Foundation Program Fund 2,000,000 (fiscal year 1994-95 column)
1,500,000 (fiscal year 1995-96 column)

(KRS 15.430 to 15.510; KRS 42.190; KRS 136.392)

6. Economic Development Bonds Repayments 600,000 (fiscal year 1994-95 column)
700,000 (fiscal year 1995-96 column)

(Chapter 47)"; and

On page 163, line 18, by deleting the amount "5,875,000" and inserting the amount "11,225,000"; and by deleting the amount "6,375,000" and inserting the amount "10,825,000"; and

On page 163, line 25, by deleting the word "and" and inserting a "," (comma); and

On page 163, line 26, after the word "functions" by inserting the words ", and other items that may be specified in this Act,"; and by deleting the words "Any budget"; and

On page 163, by deleting line 27 in its entirety and inserting in lieu thereof the following:

"No budget revision action shall be taken by a branch head in excess of the actual or projected deficit."; and

On page 164, by deleting line 1 in its entirety; and

On page 164, by deleting lines 13 and 14 in their entirety; and renumbering accordingly; and

On page 164, line 21, by deleting lines 21 and 22 in their entirety; and renumbering accordingly; and

On page 164, line 23, by deleting the words "of this section are insufficient to overcome the revenue shortfall, then excess"; and by inserting "(5) Excess"; and

On page 165, after line 7 and before line 8, by inserting the following:

"(6) Funds available in the Budget Reserve Trust Fund created in this Act shall be applied in an amount not to exceed $30,000,000 in any fiscal year, upon prior specific authorization by the General Assembly in an extraordinary or regular session."; and renumbering accordingly; and

On page 165, after line 13 and before line 14, by adding the following:

"(7) Recipient benefits and services in the Medicaid Program shall not be subject to the General Fund Budget Reduction Plan."; and

On page 165, lines 19 and 20, by deleting the words "at least two and one-half percent (2.5%) but not more than"; and

On page 165, line 20, by inserting the word "or" after the word "(5%)"; and

On page 165, line 23, after "48.130." by inserting the following: "No budget revision action shall be taken in excess of the actual or projected deficit."; and

On page 167, line 3, after the word "Contracts: " by deleting the remainder of line 3, and lines 4 through 15 in their entirety, and by inserting in lieu thereof the following: "The Department of Law shall present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Department of Law's capacity to perform the work at a lesser cost. State agencies shall agree to make arrangements with the Department of Law to perform the legal work and compensate the Department of Law for the legal services. Immediately upon the time of the agreement, twenty-five percent (25%) of the estimated total cost of the agreed cost of legal services shall be credited to a restricted fund account out of which expenditures may be made. Over the balance of the terms of the agreement, quarterly installments shall be credited to the account. The final quarterly payment shall be made within thirty (30) days of the completion of the legal agreement. A copy of the legal services agreement and financial terms shall be provided to the Finance and Administration Cabinet. The Finance and Administration Cabinet shall execute the financial arrangements as provided under this section, notwithstanding any other provision of the Kentucky Revised Statutes. State agencies shall submit any proposals for legal services to the Department of Law to determine if the legal services can be performed by the Department of Law.

If the Department of Law determines that the provisions in this section require additional staff positions, the Department of Personnel and the Governor's Office of Policy and Management shall take timely action to enable the Department of Law to recruit and employ the personnel the Department has determined as necessary. Actions taken under the terms of this section shall be reviewed by the Interim Joint Committee on Appropriations and Revenue as provided in Part III."; and

On page 169, by deleting lines 1 through 8 in their entirety; and renumbering accordingly; and

On page 169, line 10, by deleting the words "Funds appropriated in"; and inserting in lieu thereof the words "State funding for the Joint Funding Administration shall be contingent on the following conditions: (1) completion of an audit of all state and federal dollars utilized by the area development district according to strict federal single audit standards, and the submission of such audits to the Governor, the Commissioner of Local Government, the state auditor, the Legislative Research Commission, and all state and federal agencies from which funding is received; and (2) an annual report to the Legislative Research Commission for referral to the appropriate legislative interim committee by the Kentucky Council of Area Development Districts in regard to the use, application, and benefit of all such Joint Funding Administration funding.", and renumbering accordingly; and

On page 169, by deleting lines 11 through 27 in their entirety; and

On page 170, by deleting lines 1 and 2 in their entirety; and

On page 170, after line 2 and before line 3, by inserting the following:

"4. KENTUCKY RETIREMENT SYSTEMS

a. Contracting Legal Services: Notwithstanding KRS 61.645 (11), the Kentucky Retirement Systems will submit any proposals for legal services to the Department of Law to determine if the legal services can be performed by the Department of Law. The Kentucky Retirement Systems shall receive a written response from the Department of Law declining the work before a contract is entered into with a private attorney or law firm.

b. Retirees Benefit Improvement: The Kentucky Retirement Systems is directed to provide up to one percent (1%) increase in retirement allowance above the level currently authorized in statute should money become available in the margin or from the five (5) year actuarial revaluation conducted in 1995. This benefit improvement may be made available to members of the Kentucky Retirement System, the State Police Retirement Systems, and the County Employees Retirement System."; and

On page 170, by deleting lines 4 through 10 in their entirety, and renumbering accordingly; and

On page 170, line 12, by deleting the words "Capital Projects:"; and

On page 171, by deleting lines 5 through 15 in their entirety; and

On page 171, line 16, before the word "Economic" by inserting the letter "b."; and

On page 171, line 26, by deleting the words "In the event that" and inserting the word "If"; and by deleting the word "such" and inserting the word "the"; and

On page 172, by deleting lines 5 through 11 in their entirety;

On page 172, after line 22 and before line 23, by inserting the following:

"8. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY

a. Facilities Support Program of Kentucky: To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovation of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12) and any levy pursuant to KRS 157.440(1)(a). The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents ($0.05) shall be equalized at one hundred and fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible and any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds shall be escrowed for future debt service or used to address categorical priorities based on the approved facilities plan pursuant to KRS 157.420.

b. Allocation of Support Education Excellence in Kentucky funds: Funds allocated for the Support Education Excellence in Kentucky (SEEK) base and for the adjustment factors - pupil transportation, at-risk students, exceptional children, and home and hospital instruction - and not needed for the SEEK base or for a particular adjustment factor may be allocated to other adjustment factors if funds for that adjustment factor are insufficient.

c. Local District Teacher Salary Schedule: Local school districts shall increase the local teacher's salary schedule by a percentage equal to the increases in state and local SEEK or five percent (5%), whichever is less."; and renumbering accordingly; and

On page 173, line 5, after the word "rewards." by inserting the following: "The average teachers' salary in the five (5) school districts with the highest average teachers' salary in the last year of the biennium in which the reward was earned shall serve as the basis for calculation of the reward. Distribution of rewards to local schools shall be based on policy established by the State Board for Elementary and Secondary Education."; and

On page 174, after line 26 and before line 27, by inserting the following:

"d. Minority Educator Recruitment and Retention Program: There is created in the Department of Education a Division of Minority Educator Recruitment and Retention. This Division is established to increase the percentage of minority educators in the Commonwealth, to help retain those minority educators currently working in education, and to implement all or part of the strategic plan pursuant to KRS 161.165.

The goals of this program shall include but not be limited to the following: (a) increase the percentage of minority educators in proportion to the number of minority students; (b) encourage an increase in the percentage of minority individuals on the staffs of all school districts; (c) create programs to identify minority students in grades seven (7) through twelve (12) with college potential; (d) increase the pool of minority educators through aggressive recruitment and financial assistance to candidates, including paraprofessionals, those with degrees or careers in other fields, and community college students; and (e) provide administrative support for networking among minority educators and for implementation of the strategic plan.

The division shall coordinate with efforts by the Education Professional Standards Board, the Department of Education, the Council on Higher Education, the institutions of higher education, and local school districts to improve and retain minority educators. The staff shall include a division director, a branch manager, and other necessary support staff to carry out the responsibilities of this division."; and

On page 175, line 5 by deleting the word "o" and inserting the word "To"; and

On page 175, line 18, by deleting the words "Up to ten (10) additional"; and

On page 175, by deleting lines 19 through 23 in their entirety; and inserting the following:

"The Task Force shall be responsible for actively soliciting input from all Commonwealth agencies currently providing services to deaf and hard of hearing persons as well as input from deaf and hard of hearing citizens of the Commonwealth who represent a broad spectrum of individuals with hearing loss, including but not limited to, culturally deaf persons, oral deaf persons, hard of hearing persons, late deafened persons, deaf-blind persons, and deaf multi-disabled persons. The Task Force shall consult with experts in the various fields of programs and services for deaf and hard of hearing persons."; and

On page 176, line 3, after the word "Assembly" by inserting the words "unless such action is reviewed and approved by the Interim Joint Committee on Appropriations and Revenue as provided in Part III"; and

On page 176, line 10, after the word "adjustment" by inserting "up to 1.5 percent (1.5%)"; and after the word "and" by inserting the word "an"; and after the word "service" by inserting the words "from $240 to $260"; and

On page 176, delete lines 12 through 18 in their entirety; and renumbering accordingly; and

On page 176, line 21, before the word "Veterans" by inserting the word "Kentucky"; and by deleting the words "Nursing Home and Advisory Commission" and inserting the words "Center (Nursing Home)"; and

On page 176, line 22, by inserting the words "renamed the Kentucky Veterans Center and" after the word "is", and deleting the words "transferred immediately upon", and

On page 176, by deleting line 23, in its entirety; and

On page 176, line 24, after the word "purposes" by inserting the words "effective July 1, 1994"; and by deleting the amount "$150,000"; and

On page 176, by deleting lines 25 through 27 in their entirety; and

On page 177, line 5, by deleting the amount "5,000,000" and inserting the amount "15,000,000"; and

On page 177, line 6, by inserting after the word "Fund" the words "and the federally Assisted Water Supply Revolving Fund. The Secretary of the Finance and Administration Cabinet shall utilize the bond funds to maximize federal funds available for both funds"; and

On page 177, line 6, by deleting the words "$5,000,000 in bonds is authorized in fiscal"; and

On page 177, by deleting lines 7 through 9 in their entirety; and

On page 177, after line 27, by inserting the following:

"Performance funds for fiscal year 1995-96 shall be appropriated to the institutions of higher education. By May 15, 1995, the Council on Higher Education and the Conference of Presidents, in consultation, shall determine the amount that each institution qualifies to expend, using the criteria contained in the 1994-96 fiscal biennium State/Executive Branch Budget Bill. Funds for which the institutions do not qualify shall lapse to the General Fund."; and

On page 178, after line 6 and before line 7, by inserting the following,

"d. Dental Education: There shall be no increase in the state General Fund appropriation for the University of Kentucky and the University of Louisville dental schools above the fiscal year 1993-94 level for the 1994-96 biennium. The state General Fund appropriation for each dental school shall be reduced, on a dollar-for-dollar basis, by the amount that each dental school receives in Medicaid reimbursement for those persons who become eligible for the Medicaid health plan by virtue of the Governor's new program to cover all Kentuckians with incomes up to 100 per cent (100%) of the federal poverty level. A financial review by the Council on Higher Education, the University of Kentucky, and the University of Louisville shall be held every six months to determine the amount of the offset against the state appropriation."; and

On page 178, line 9, by deleting the word "MoSU" and inserting the words "Morehead State University"; and

On page 178, after line 11 and before line 12, by inserting the following:

"17. MURRAY STATE UNIVERSITY:

a. Breathitt Veterinary Center: The General Fund appropriation is $2,014,800 in fiscal year 1994-95 and $2,075,200 in fiscal year 1995-96 for the Breathitt Veterinary Center. The restricted funds appropriation is $230,000 in each year for the Breathitt Veterinary Center. Notwithstanding KRS 48.130 and KRS 48.600, there shall be no reduction in funding."; and

On page 178, by deleting lines 12 through 24 in their entirety; and renumbering accordingly; and

On page 179, by deleting lines 1 and 2 in their entirety; and

On page 179, line 3, by deleting the "b." and inserting an "a."; and

On page 179, line 9, by deleting the word "positions" and inserting the word "position"; and

On page 179, by deleting lines 13 through 14 in their entirety; and

On page 179, by deleting lines 25 through 27 in their entirety; and

On page 180 , by deleting line 1 in its entirety; and

On page 180, line 13, by deleting the words "Provide mobile unemployment insurance services in"; and by inserting in lieu thereof the following:

"It is the intent of the General Assembly that the Department shall provide access to unemployment insurance benefits and services in the locality where a layoff of fifty (50) or more individuals at a single employer occurs."; and

On page 180, line 14, by deleting line 14 in its entirety; and

On page 180, after line 14 and before line 15, by inserting the following:

"22. DEPARTMENT FOR MEDICAID SERVICES

a. Medicaid Benefits Budget: If the Medicaid appropriation is insufficient to provide current benefits to eligible recipients, it is the General Assembly's intent that no reduction in services or the number of eligible recipients occur, and there shall be a reduction in the provider reimbursements for covered services for the purpose of financing such deficiencies.

b. Medicaid Trust Fund: If there is an enactment by the 1994 General Assembly providing for the creation of a Medicaid program savings trust fund, any savings in the Medicaid program certified by the secretary of the Finance and Administration Cabinet and transferred to a trust account for utilization by the secretary of the Cabinet for Human Resources to provide health care coverage for additional categories of citizens shall be determined as follows:

If the actual annual number of eligibles is greater than 531,310 in fiscal year 1993-94, greater than 553,000 in fiscal year 1994-95, or greater than 570,000 in fiscal year 1995-96, then savings for that fiscal year shall be defined as the amount obtained by subtracting actual total Medicaid benefits expenditures, excluding disproportionate share payments, from the enacted budget amount for total Medicaid benefits expenditures, excluding disproportionate share payments, for the corresponding fiscal year.

If the actual average number of eligibles is equal to or less than 531,310 in fiscal year 1993-95, equal to or less than 553,000 in fiscal year 1994-95, or equal to or less than 570,000 in fiscal year 1995-96, then savings for that fiscal year shall be defined as the quantity obtained by subtracting the actual annual average monthly cost per eligible for the fiscal year from the base monthly cost per eligible for the fiscal year, multiplying the result by the actual annual average number of eligibles for the fiscal year, and multiplying that result by twelve (12). The base monthly cost per eligible shall be $279.28 in fiscal year 1993-94, $278.83 in fiscal year 1994-95, and $296.27 in fiscal year 1995-96. Actual annual average monthly cost per eligible shall be calculated using the methodology which was used by the Department for Medicaid Services to derive the $275.56 annual average monthly cost per eligible for fiscal year 1992-93.

Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, savings shall be certified on an annual basis, within sixty (60) days of the close of each fiscal year. Only savings that are certified as recurring shall be transferred to the trust fund. Any amounts in the trust fund shall not be expended until specifically appropriated by the General Assembly."; and renumbering accordingly; and

On page 180, line 16, by deleting the word "The", and inserting in lieu thereof "Pursuant to compliance with the provisions of Part III and the statutory Budget Memorandum, the"; and

On page 180, after line 18 and before line 19, by adding the following:

"24. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Salary Improvement Plan: In the Department for Mental Health/Mental Retardation are annual increases of $1,290 to patient aides; $1,020 to patient aides, seniors; and $1,020 to nurse aides state registered. Entry level salaries for all three job classifications shall be advanced by ten percent (10%)."; and renumbering accordingly; and

On page 180, line 25, by deleting the words "Any unappropriated Title IV-E funds or unexpended" and inserting in lieu thereof the following: "Pursuant to compliance with the provisions of Part III of the Budget Bill and the statutory Budget Memorandum, Title IV-E receipts shall be applied to the appropriate current year costs; any non-recurring Title IV-E funds shall be used to match federal funds available for the TWIST project; any additional Title IV-E shall be used for additional field workers."; and

On page 180, by deleting lines 26 and 27 in their entirety; and

On page 181, by deleting line 1 in its entirety; and

On page 181, by deleting lines 6 through 11 in their entirety; and

On page 181, line 12, by deleting "e", and inserting in lieu thereof "d"; and

On page 181, after line 13 and before line 14, by adding the following:

"26. ADMINISTRATION AND PROGRAM SUPPORT

a. General Fund Lapse: If any portion of the above General Fund appropriation exclusive of the Medicaid benefits in fiscal year 1993-94 and fiscal year 1994-95 is deemed to be in excess of the necessary expenses for Cabinet operation the amount shall not lapse, and shall be carried forward into the next fiscal year and subject to the approval of the interim Appropriations and Revenue Committee shall be expended for: Supported Living, $1,250,000 each year; Community Health Advisory Program, $1,000,000 each year; Victim Defense Fund for Child Sexual Abuse, $800,000 each year."; and renumbering accordingly; and

On page 181, line 15, by deleting the word "The", and inserting in lieu thereof "Pursuant to compliance with the provisions of Part III of the Budget Bill and the statutory Budget Memorandum, the"; and

On page 181, after line 18 and before line 19, by inserting the following:

"28. HEALTH CARE POLICY BOARD

a. The Interim Office of Health Planning and Certification shall continue its current operations/responsibilities until a Health Care Policy Board or other organization is authorized to assume the operations/responsibilities through the budget bill or other enabling legislation and may utilize the most recent Health Care Plan until another Health Care Plan is developed."; and renumbering accordingly; and

On page 181, line 21, by deleting the word "Status Report", and inserting in lieu thereof "Staff"; and

On page 181, line 26, by deleting the words "$500,000 is provided"; and

On page 181, by deleting line 27 in its entirety; and

On page 182, by deleting lines 1 through 7 in their entirety; and

On page 182, after line 7 and before line 8, by inserting the following:

"b. Charitable Gaming Commission: The General Fund appropriation of $500,000 in fiscal year 1993-94 shall be repaid by the Charitable Gaming Commission to the General Fund Surplus Account by the end of fiscal year 1995-96. The repayment shall be made from revenue generated from license fees imposed on charitable gaming operations. The license fees shall also provide the ongoing funding support for this Commission."; and

On page 182, line 9, by deleting the words "and Troopers"; and

On page 182, line 13, by deleting the words ""A "State Trooper Horizontal Career Program" is provided for, at a cost""; and

On page 182, by deleting lines 14 through 19 in their entirety and inserting in lieu thereof the following:

"b. State Police Auto Liability Insurance: General Fund moneys in the amount of $400,000 in each year of the next biennium is provided to reimburse sworn officers for the costs of motor vehicle liability insurance that is required for the occupation."; and

On page 183, line 4, by deleting the word "scheduled" and inserting the word "schedule"; and

On page 183, by deleting lines 15 through 18 in their entirety; and

On page 183, line 19, by deleting "c", and inserting in lieu thereof "b"; and

On page 184, line 24, by deleting the word "it" and inserting the word "its"; and

On page 185, after line 7 and before line 8, by adding the following:

"b. Environmental Inspector Upgrade: As funding becomes available through vacancy credits or other cost savings measures, the Cabinet shall upgrade the Environmental Inspector classifications consistent with the Personnel Board Order of October, 1991."; and

On page 186, line 4, before the word "balances", by inserting the words "receipts credited to restricted or federal funds accounts and any"; and after the word "accounts.", by inserting the following: "There is also appropriated $200,000 from the General Fund in fiscal year 1995-96 for the central computer upgrade."; and

On page 186, by deleting lines 10 through 13 in their entirety; and renumbering accordingly; and

On page 186, line 26, after the word "claim." by inserting the following: "The Commission shall continue to provide quarterly reports on the status of applications for Fund assistance to the Legislative Research Commission for referral to the appropriate committees. In addition to the information in the current reports, the revised quarterly reports shall separately reflect activities in the Storage Tank Account, and reflect the Commission's operating budget segregated by major expenditure category."; and

On page 186, after line 26 and before line 27, by inserting the following;

"39. KENTUCKY RIVER AUTHORITY

a. Water User Fees: The water user fees imposed by the Authority shall not be subject to state and local taxes.

b. Locks and Dams 5-14: The Kentucky River Authority is directed to prepare a plan for the orderly acquisition of the Kentucky River Locks and Dams 5 through 14 and the adjacent lock master properties for conversion to park purposes, and may apply and expend Economic Development Bond moneys for the planned conversion.

40. STATE OFFICE OF GEOGRAPHIC INFORMATION

a. Organization and funding: The State Office of Geographic Information shall be a separate and distinct appropriation unit in the Finance and Administration Cabinet, and the 1994-96 fiscal biennium funding shall be established in accordance with the conditions and procedures specified in Part III."; and

On page 187, by deleting lines 1 through 27 in their entirety; and

On page 188, by deleting line 1 in its entirety; and renumbering accordingly; and

On page 188, line 18, by inserting the word "the" after the word "to"; and

On page 189, by deleting lines 2 through 14 in their entirety; and

On page 189, by deleting lines 16 through 21 in their entirety; and;

On page 189, line 22, by deleting the letter "b" and inserting the letter "a"; and

On page 190, line 4, by deleting the word "Six-Year" and inserting the words "Six Year"; and

On page 190, line 10, by deleting the amount "90,000" and inserting the amount "10,000"; and

On page 190, line 12, by deleting the word "million"; and

On page 191, line 19, by deleting the amount "11,875,000" and inserting the amount "7,615,000"; and by deleting the amount "4,804,025,200" and inserting the amount "4,816,301,700"; and by deleting the amount "5,082,865,300" and inserting the amount "5,059,761,200"; and

On page 191, line 20, by deleting the amount "2,107,970,200" and inserting the amount "2,087,727,800"; and by deleting the amount "2,186,827,200" and inserting the amount "2,166,606,500"; and

On page 191, line 21, by deleting the amount "3,510,688,200" and inserting the amount "3,508,576,100"; and by deleting the amount "3,638,800,600" and inserting the amount "3,635,132,800"; and

On page 191, line 24, by deleting the amount "27,054,800" and inserting the amount "22,794,800"; and by deleting the amount "11,390,624,300" and inserting the amount "11,380,546,300"; and by deleting the amount "11,890,470,600" and inserting the amount "11,843,478,000"; and

On page 191, line 27, by deleting the amount "14,421,000" and inserting the amount "9,857,400"; and by deleting the amount "8,425,000" and inserting the amount "5,675,000"; and

On page 192, line 1, by deleting the amount "330,753,700" and inserting the amount "303,428,700"; and by deleting the amount "141,742,500" and inserting the amount "140,492,500"; and

On page 192, line 2, by deleting the amount "48,641,500" and inserting the amount "44,313,500"; and by deleting the amount "16,034,500" and inserting the amount "10,952,500"; and

On page 192, line 3, by deleting the amount "295,238,700" and inserting the amount "66,303,000"; and by deleting the amount "69,342,000" and inserting the amount "4,000,000"; and

On page 192, line 5, by deleting the amount "42,330,000" and inserting the amount "35,000,000"; and

On page 192, line 8, by deleting the amount "81,315,000" and inserting the amount "3,100,000"; and by deleting the amount "1,500,000"; and

On page 192, line 9, by deleting the amount "827,681,900" and by inserting the amount "476,984,600"; and by deleting the amount "248,461,000" and by inserting the amount "172,537,000"; and

On page 192, line 12, by deleting the amount "51,500,000" and inserting the amount "56,500,000"; and by deleting the amount "30,000,000" and inserting the amount "10,000,000"; and

On page 192, line 15, by deleting the amount "63,375,000" and inserting the amount "64,115,000"; and by deleting the amount "4,848,446,200" and inserting the amount "4,836,159,100"; and by deleting the amount "5,091,290,300" and inserting the amount "5,065,436,200"; and

On page 192, line 16, by deleting the amount "2,438,723,900" and inserting the amount "2,391,156,500"; and by deleting the amount "2,328,569,700" and inserting the amount "2,307,099,000"; and

On page 192, line 17, by deleting the amount "3,559,329,700" and inserting the amount "3,552,889,600"; and by deleting the amount "3,654,835,100" and inserting the amount "3,646,085,300"; and

On page 192, line 19, by deleting the amount "361,713,700" and inserting the amount "132,778,000"; and by deleting the amount "162,867,000" and inserting the amount "97,525,000"; and

On page 192, line 20, by deleting the amount "42,330,000" and inserting the amount "35,000,000"; and

On page 192, line 23, by deleting the amount "81,315,000" and inserting the amount "3,100,000"; and by deleting the amount "1,500,000"; and

On page 192, line 24, by deleting the amount "85,486,800" and inserting the amount "86,226,800"; and by deleting the amount "12,248,306,200" and inserting the amount "11,867,530,900"; and by deleting the amount "12,138,931,600" and inserting the amount "12,016,015,000".

Signed: Representatives Marshall Long, Clarence Noland, Jr., Joe Clarke, Jody Richards, Kenny Rapier, and Larry Clark, and Senators Michael Moloney, Charles W. Berger, John A. "Eck" Rose, David K. Karem, and Dan Kelly.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Long moved that **HB 302**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 57, Nays 39. (See April 1, 1994 roll call on **HB 302** - Appendix)

HB 302, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 302**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 262, with House Floor Title Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Ballard moved that the House recede in House Floor Title Amendment to **SB 262**. Agreed.

Representative Ballard moved that **SB 262** be passed.

On the roll call the vote was: Yeas 59, Nays 2. (See April 1, 1994 roll call on **SB 262** - Appendix)

SB 262 was passed and the title agreed to.

Representative Ballard moved that the vote by which **SB 262** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 282 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Brown moved the adoption of the following Free Conference Committee Report on **HB 282**. Agreed.

The Free Conference Committee on **HB 282** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 282** with the following amendment:

On page 10, after line 20, by deleting the text on lines 21 to 27; and

On page 11, lines 1 to 13, by deleting all the text thereon; and

On line 14, after "*On*" by inserting "*the effective date of this Act*" and by deleting "*or before March 1, 1996*"; and

On line 17, after "*cabinet*" by deleting "*to determine compliance with Sections 2 to 6 of this Act*"; and

On lines 18 and 19, by deleting all the text thereon; and

On line 22, after the first "*designee;*" by inserting "*the chairman of the Kentucky Recycling Brokerage Authority or a designee;*"; and

On line 23, after "*and*" by inserting "*five (5)*" and deleting "*six (6)*"; and

On line 27, after "*initial*" by inserting "*five (5)*" and deleting "*six (6)*"; and

On page 12, line 1, after "*of*" by inserting "*two (2)*" and deleting "*three (3)*"; and

On line 25, after "*to the*" by inserting "*Interim Joint Committee on Agriculture and Natural Resources*", and deleting "*General Assembly*"; and

On line 26, before "*, on the*" by inserting "*October 1, 1995*", and deleting "*July 15, 2003*"; and

On line 27, after "*more*" by inserting "*, or any other information or recommendations deemed appropriate*"; and

On page 13, lines 1 to 25, by deleting all the text thereon.

Signed: Representatives Mark Brown, Bill Lile, and Harry Moberly, Jr., and Senators Rick Rand, Kim L. Nelson, and Charles Border.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Brown moved that **HB 282**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 87, Nays 4. (See April 1, 1994 roll call on **HB 282** - Appendix)

HB 282, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 282**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Barrows moved that the Conference Committee Report on **HB 517** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 517**.

A Free Conference Committee Report was filed on **HB 517**.

SB 308 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative B. Smith moved the adoption of the following Free Conference Committee Report on **SB 308**. Agreed.

The Free Conference Committee on **SB 308** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the House Committee Substitute to **SB 308** and the following amendment:

Amend **SB 308** by deleting everything in bill after line 18, page 1.

Signed: Representatives Billy Ray Smith, Ray Altman, Stephen Nunn, and Jack Coleman, and Senators Tom Buford, Tim Shaughnessy, and Tom Smith.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative B. Smith moved that **SB 308**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See April 1, 1994 roll call on **SB 308** - Appendix)

SB 308, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **SB 308**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Mason moved that the Conference Committee Report on **HB 207** requesting a Free Conference be adopted. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 207**: Representatives Lear, Mason and Maricle.

A Free Conference Committee Report was filed on **HB 207**.

Representative Stumbo moved that the rules be suspended to act upon a Conference Committee Report. Agreed.

Representative Barrows moved the adoption of the following Free Conference Committee Report on **HB 517**. Agreed.

The Free Conference Committee on **HB 517** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the GA Copy of **HB 517** with Senate Committee Amendment No. 2 and Senate Floor Amendments Nos. 4 and 5.

Signed: Representatives Stephen C. Keith, Robert Damron, Jimmie Lee, and Joe Barrows, and Senators Joseph Meyer and Larry Saunders.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Mason moved the adoption of the following Free Conference Committee Report on **HB 207**. Agreed.

The Free Conference Committee on **HB 207** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 207** with the following amendment:

On page 32, line 18 through 25, by deleting lines 18 through 25 in their entirety.

Signed: Representatives Bill Lear, Paul Mason, and Allen Maricle, and Senators Benny Ray Bailey, Richard Roeding, and Joey Pendleton.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 81 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

A Minority Free Conference Committee Report on **SB 81** was filed as follows:

The Free Conference Committee on **SB 81** has met as provided in the Rules of the House and Senate and hereby reports the following Minority Report to be adopted:

The Minority is opposed to approving House Committee Amendment No. 1 which is legislation requested by the Kentucky Employees Retirement System when the Kentucky Employees Retirement System has refused to cooperate with requests relating to county officials made by the Representative voting in the minority.

Signed: Representative Robert R. Damron.

The above-named members, in separate votes by house, all concur in the provisions of this report.

A Majority Free Conference Committee Report on **SB 81** was filed.

Representative Johnson moved the adoption of the following Majority Free Conference Committee Report on **SB 81**. Agreed.

The Free Conference Committee on **SB 81** has met as provided in the Rules of the House and Senate and hereby reports the following Majority Report to be adopted:

Adopt the provisions of the GA Copy of **SB 81** and House Committee Amendment No. 1.

Signed: Representatives Jimmie Lee, Joe Barrows, and Stephen C. Keith, and Senators Joseph U. Meyer and David Boswell.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Johnson moved that **SB 81**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 59, Nays 13. (See April 1, 1994 roll call on **SB 81** - Appendix)

SB 81, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 81**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess until 8:15 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Free Conference Committee Report was filed on **SB 247**.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 119, SB 214, SB 242** and **SB 255** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -8:25 p.m.)

Senate Message (Continued)

HB 250 returned with the following message: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 250**: Senators Karem, Rose and Rogers. (Time: 8:30 p.m.)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to act upon a Free Conference Committee Report. Agreed.

SB 247 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **SB 247**.

The Free Conference Committee on **SB 247** met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the GA Copy of **SB 247** and House Committee Amendment No. 1 and House Floor Amendment No. 1.

Signed: Representatives Tom Riner, Harry Moberly, Jr., and Freed Curd, and Senators Gerald Neal and Joseph U. Meyer.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call on the adoption of the Free Conference Committee Report on **SB 247**, the vote was **Yeas 35**--Arnold, Barrows, Bondurant, Bowling, Butler, Callahan, L. Clark, P. Clark, Clarke, Crenshaw, Curd, Farrow, French, Geveden, Graham, Gray, Hatcher, Lee, Lewis, Lile, Long, Maggard, Marzian, Mason, McElroy, Moberly, Napier, Palumbo, Rasche, Riner, Scott, Shacklette, Simpson, Trapp, Wayne. **Nays 39**--Adams, Adkins, Allen, Altman, Ballard, Bentley, Bryant, Buis, Cave, Collins, Cyrus, Damron, Deskins, Donnermeyer, Farley, Ford, Fox, Gedling, Gee, Hampton, Harper, Heleringer, Keith, Kerr, Lindsay, Maricle, Nelson, Nesler, Noland, Nunn, Reinhardt, Sanders, Stacy, Stengel, Stumbo, Todd, Treesh, Turner, Walton.

The motion to adopt the Free Conference Committee Report on **SB 247** was rejected.

Recess

Representative Stumbo moved that the House recess until 9:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Messages (Continued)

HB 517 returned with the following message: The Senate has adopted the Free Conference Committee Report on **HB 517** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 9:05 p.m.)

Orders of the Day (Continued)

A corrected copy of the Free Conference Committee Report was filed on **HB 207**.

The Speaker moved that the House stand at ease.

The Speaker called the House to order.

Representative Mason moved that the vote by which the Free Conference Committee Report on **HB 207** was adopted be reconsidered and it be placed back in the Orders of the Day. Agreed.

Representative Mason moved the adoption of the following corrected copy of the Free Conference Committee Report on **HB 207**. Agreed.

The Free Conference Committee on **HB 207** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Senate Committee Substitute to **HB 207** and the following amendment:

Agreed to Adopt the Senate Committee Substitute for House Bill 207 except

On page 32, line 18, By inserting after "Section 22." the following: "To the extent funds become available and ";

And on page 32, line 20, By inserting a period after "216B" and by deleting "and for this";

And on page 32, By deleting lines 21 through 25 in their entirety.

Signed: Representatives Bill Lear, Paul Mason, and Allen Maricle, and Senators Benny Ray Bailey, Richard Roeding, and Joey Pendleton.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Mason moved that **HB 207**, as amended by the corrected copy of the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See April 1, 1994 roll call on **HB 207** - Appendix)

HB 207, as amended by the corrected copy of the Free Conference Committee Report, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 207**, as amended by the corrected copy of the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Barrows moved that **HB 517**, as amended by a previously adopted Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See April 1, 1994, roll call on - Appendix)

HB 517, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 517**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "nay" on **HB 455**. Agreed.

Senate Message (Continued)

Announcing passage of **SCR 135**. (Time: 9:20 p.m.) **HB 207** returned with the following message: The Senate has adopted the Free Conference Committee Report on **HB 207** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

HJR 27 returned with the following message: The Senate has passed **HJR 27** by way of Senate Committee Substitute with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

HJR 28 returned with the following message: The Senate has passed **HJR 28** by way of Senate Committee Substitute with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

HJR 29 returned with the following message: The Senate has passed **HJR 29** by way of Senate Committee Substitute and with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

HB 250 returned with the following message: The Senate has adopted the Free Conference Committee Report on **HB 250** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 10:00 p.m.)

Orders of the Day (Continued)

HJR 27, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 27** is as follows:

HJR 27, A JOINT RESOLUTION relating to the budget process.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process which is primarily codified as KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum which shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain the changes in detail sufficient to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory budget process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That any mandates, directives, or initiatives contained in the 1994-96 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. That the staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1994-96 Judicial Branch Budget Memorandum which do not alter the sense, meaning, or effect of the 1994-96 Judicial Branch Budget Bill or the 1994-96 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 1994-96 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 1994-96 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 1994 regular session of the General Assembly. If any mandate, directive, or initiative contained in the 1994-96 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1994-96 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1994-96 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill becomes effective upon its passage and approval by the Governor, an emergency is declared to exist, and this Joint Resolution shall become effective upon its passage and approval by the Governor.

Section 5. The 1994-96 Judicial Branch Budget Memorandum is as follows:

(See Appendix B-2, Judicial Branch Budget Memorandum)

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HJR 27** is as follows:

On page 1, by amending the title to read as follows:

"A JOINT RESOLUTION relating to the budget process, and declaring an emergency."

Representative Long moved that the House concur in the Senate Committee Substitute to **HJR 27**. Agreed.

Representative Long moved that the House concur in Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HJR 27**. Agreed.

Representative Long moved that **HJR 27**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 63, Nays 2. (See April 1, 1994 roll call on **HJR 27** - Appendix)

HJR 27, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HJR 27**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 28, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 28** is as follows:

HJR 28, A JOINT RESOLUTION relating to the budget process.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process which is primarily codified as KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum which shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain the changes in detail sufficient to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory budget process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That any mandates, directives, or initiatives contained in the 1994-96 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. That the staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1994-96 State/Executive Branch Budget Memorandum which do not alter the sense, meaning, or effect of the 1994-96 State/Executive Branch Budget Bill or the 1994-96 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 1994-96 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 1994-96 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 1994 regular session of the General Assembly. If any mandate, directive, or initiative contained in the 1994-96 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1994-96 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1994-96 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill becomes effective upon its passage and approval by the Governor, an emergency is declared to exist, and this Joint Resolution shall become effective upon its passage and approval by the Governor.

Section 5. The 1994-96 State/Executive Branch Budget Memorandum is as follows:

(See Appendix B-1, Executive Branch Budget Memorandum)

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HJR 28** is as follows:

On page 1, by amending the title to read as follows:

"A JOINT RESOLUTION relating to the budget process, and declaring an emergency."

Representative Long moved that the House concur in the Senate Committee Substitute to **HJR 28**. Agreed.

Representative Long moved that the House concur in the Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HJR 28**. Agreed.

Representative Long moved that **HJR 28**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 84, Nays 1. (See April 1, 1994 roll call on **HJR 28** - Appendix)

HJR 28, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HJR 28**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 29, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 29** is as follows:

HJR 29, A JOINT RESOLUTION relating to the budget process.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process which is primarily codified as KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum which shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain the changes in detail sufficient to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory budget process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That any mandates, directives, or initiatives contained in the 1994-96 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. That the staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1994-96 Legislative Branch Budget Memorandum which do not alter the sense, meaning, or effect of the 1994-96 Legislative Branch Budget Bill or the 1994-96 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 1994-96 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 1994-96 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 1994 regular session of the General Assembly. If any mandate, directive, or initiative contained in the 1994-96 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1994-96 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1994-96 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill becomes effective upon its passage and approval by the Governor, an emergency is declared to exist, and this Joint Resolution shall become effective upon its passage and approval by the Governor.

Section 5. The 1994-96 Legislative Branch Budget Memorandum is as follows:

(See Appendix B-3, Legislative Branch Budget Memorandum)

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HJR 29** is as follows:

On page 1, by amending the title to read as follows:

"A JOINT RESOLUTION relating to the budget process, and declaring an emergency."

Representative Long moved that the House concur in the Senate Committee Substitute to **HJR 29**. Agreed.

Representative Long moved that the House concur in the Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HJR 29**. Agreed.

Representative Long moved that **HJR 29**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See April 1, 1994 roll call on **HJR 29** - Appendix)

HJR 29, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HJR 29**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Scorsone moved that the rules be suspended to act upon **HB 250**. Agreed.

Representative Stumbo moved that **SJR 135** be adopted.

Representative Stumbo moved that the motion that **SJR 135** be adopted be withdrawn. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for enrolling, engrossing and the adoption of **SJR 135**.

The Speaker ruled that the motion that no further business be conducted on this day except for enrolling, engrossing and the adoption of **SJR 135** was out of order.

Representative Deskins inquired if any member could call a bill without the Majority Leader's permission.

Representative Scorsone asked that the Majority Floor Leader call **HB 250**.

Representative Hatcher inquired if **HB 250** could be voted on April 15, 1994.

The Speaker offered no opinion.

Representative Stumbo moved to table the motion to suspend the rules to act on **HB 250**.

On the roll call to table the motion to act on **HB 250**, the vote was **Yeas 44**--Adams, Adkins, Barrows, Bentley, Bowling, Brown, Buis, Butler, Callahan, L. Clark, P. Clark, Collins, Crenshaw, Cyrus, Damron, Deskins, Donnermeyer, Farrow, Fox, French, Gedling, Gray, Hampton, Hatcher, Heleringer, Kerr, Lee, Little, Maggard, Marzian, Mason, Moberly, Morris, Mullinix, Nelson, Nesler, Richards, Riggs, Sanders, Scott, Shacklette, Stacy, Stumbo, Worthington. **Nays 46**--Allen, Altman, Arnold, Bondurant, Bryant, Cave, Clarke, Coleman, Curd, DeWeese, Farley, Ford, Geveden, Graham, Hancock, Harper, Jensen, Keith, Lewis, Lile, Lindsay, Long, Lyne, Maricle, McElroy, Napier, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Ridley, Riner, Scorsone, Simpson, B. Smith, Stengel, Todd, Trapp, Treesh, Turner, Walton, Wayne, Zimmerman.

The motion to table the motion to act upon **HB 250** was rejected.

Representative Stumbo moved that the rules be suspended to act upon **HB 250**. Agreed.

HB 250 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage.

On the roll call that **HB 250** be taken from the Orders of the Day, the vote was **Yeas 43**--Allen, Altman, Arnold, Ballard, Bondurant, Brown, Bryant, Cave, Coleman, Crenshaw, Curd, Farley, Ford, Geveden, Graham, Hancock, Jensen, Keith, Lewis, Lindsay, Long, Lyne, Maricle, McElroy, Napier, Noland, Northup, Nunn, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Scorsone, Simpson, B. Smith, Stengel, Trapp, Treesh, Turner, Walton, Wayne. **Nays 42**--Adams, Adkins, Barrows, Bentley, Bowling, Buis, Butler, Callahan, L. Clark, P. Clark, Collins, Cyrus, Deskins, Donnermeyer, Farrow, Fox, French, Gedling, Gray, Hampton, Harper, Hatcher, Heleringer, Kerr, Lee, Little, Maggard, Marzian, Mason, Moberly, Morris, Mullinix, Nelson, Nesler, Riggs, Sanders, Scott, Shacklette, Stacy, Stumbo, Todd, Worthington.

The motion that **HB 250** be taken from the Orders of the Day was adopted.

Representative Scorsone moved the adoption of the following Free Conference Committee Report on **HB 250**.

The Free Conference Committee on **HB 250** met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

Adopt the provisions of the Second Senate Committee Substitute to **HB 250**, Senate Floor Amendments Nos. 1, 7, 9, 30, 31, 32, 33, 37, 38, 42, 48, 49, 50, 53, 57, 58, 59, 60, 64, 74, 75, 76, 87, and 89, and the following amendment:

On page 13, line 23, by inserting after the word "*system*" the words, "*, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits*"; and

On page 13, line 26, by deleting "*and*"; and

On page 13, below line 27, by adding the following:

"*4. Health insurance costs; and*

5. The cost of health benefits covered by motor vehicle insurance and workers' compensation insurance;"; and

On page 14, between lines 6 and 7, by adding the following new subsection:

"*(3) All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Kentucky Health Policy Board the following information on their insurance experience in this state for the preceding calendar year:*

(a) Total premiums paid;

(b) Total cost of claims filed and paid;

(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;

(d) Total policies canceled by type and the aggregate reasons therefor;

(e) List of total health and medical services paid for, grouped by types of services and costs:

1. Total cost per health and medical service per insured group per month;

a. Cost paid by insurer;

b. Cost paid by insured; and

2. Percentage of insureds who received each service.

If the Kentucky Health Policy Board finds it necessary for the purposes of carrying out the provisions of Sections 5 to 10 of this Act, the board may require quarterly transmission to the board of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the board from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment."; and

On page 14, line 7, by renumbering "*(3)*" as "*(4)*"; and

On page 14, line 22, by inserting after "*periodic basis,*" the words "*which may include quarterly reporting,*"; and

On page 15, line 17, by inserting after the word "*data*" the words "*, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection*"; and

On page 18, line 14, by inserting after "*shall*" the words "*at least*"; and

On page 18, line 21, by inserting after "*shall*" the words "*at least*"; and

On page 78, line 7, before "*individual*" by inserting "*, upon approval by the Kentucky Health Policy Board,*"; and

On page 78, line 10, after "***1994***" by adding "***, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to Section 80 of this Act***"; and

On page 79, between lines 21 and 22, by inserting the following:

"***(c) With respect to those persons listed in subparagraphs 2. to 6. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.***"; and

On page 91, line 6, after "***and***" by inserting "***, upon approval by the Kentucky Health Policy Board,***"; and

On page 91, line 9, after "***1994***" by adding "***, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to Section 80 of this Act***"; and

On page 96, line 17, by deleting "***not***"; and

On page 101, after line 15 and before line 16, by inserting:

"SECTION 81. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer issuing group or blanket health insurance policies for delivery in this state shall, before use thereof, file with the commissioner its premium rates and classifications of risks pertaining to the policies. The insurer shall adhere to its rates and classifications as filed with the commissioner. The insurer may change the filings from time to time as it deems proper.

(2) No filing under this section that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within sixty (60) days after receiving a filing under this section containing a rate increase and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(3) The rates filed with the commissioner shall not be excessive, inadequate, or unfairly discriminatory.

(4) This section shall become null and void on July 1, 1996.

Section 82. KRS 304.17-383 is amended to read as follows:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) Not less than ten (10) days in advance of a hearing held under subsection (1) of this section, the commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to such a hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after a public hearing of which at least thirty (30) days' written notice has been given, may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged.

[~~(6) (a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:~~

~~1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;~~

~~2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this paragraph. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;~~

~~3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;~~

~~4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated loss ratio standards referred to in subparagraph 1. of this paragraph. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from the end of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and~~

~~5. A guarantee that refunds of less than ten dollars ($10) will be aggregated by the insurer and paid to the Department of Insurance.~~

~~(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.]~~ " and by renumbering remaining sections accordingly; and

On page 148, line 16, after "personnel," by inserting "***shall***" and by placing brackets around and striking through "may"; and

On page 148, line 23, after "***Act.***" by inserting "***Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994.***";

And by amending Senate Floor Amendment 89 to Second Senate Committee Substitute for House Bill 250 as follows:

On page 3, by changing the changes to pages 77 and 90 of the 2nd SCS by deleting "***additional***" and inserting in lieu thereof "***supplemental***"; and

On page 4, by changing the changes to page 99, lines 19 and 20, and page 100, lines 8, 12, 20, and 27 of the 2nd SCS by deleting "***additional***" and inserting in lieu thereof "***supplemental***"; and

On page 4, after "And on page 99, by deleting lines 24 to 27 in their entirety and insert in its place:" by deleting the underlined paragraph (c) and by inserting in its place:

"***(c) Each insurer may offer supplemental policies that are approved by the board and that are advertised, marketed, and designed as a supplement to the standard health benefit plans. No benefits paid under the supplemental policies shall duplicate benefits paid under the standard health benefit plans.***".

Signed: Representatives Ernesto Scorsone, Stephen Nunn, Bob DeWeese, Kenny Rapier, Jody Richards, and Larry Clark, and Senators Nick Kafoglis, John A. "Eck" Rose, John Rogers, and David K. Karem.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call on the adoption of the Free Conference Committee Report on **HB 250**, the vote was **Yeas 44**--Allen, Altman, Arnold, Ballard, Bondurant, Bryant, Cave, Clarke, Coleman, Crenshaw, Curd, DeWeese, Farley, Ford, Geveden, Graham, Hancock, Heleringer, Jensen, Keith, Lewis, Lindsay, Long, Lyne, Maricle, McElroy, Napier, Noland, Northup, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Scorsone, B. Smith, Stengel, Treesh, Turner, Wayne, Zimmerman. **Nays 46**--Adams, Adkins, Barrows, Bentley, Bowling, Brown, Buis, Butler, Callahan, L. Clark, P. Clark, Collins, Cyrus, Deskins, Donnermeyer, Farrow, Fox, French, Gedling, Gray, Hampton, Harper, Hatcher, Kerr, Lee, Lile, Little, Maggard, Marzian, Mason, Moberly, Morris, Mullinix, Nelson, Nesler, Riggs, Sanders, Scott, Shacklette, Simpson, Stacy, Stumbo, Todd, Trapp, Walton, Worthington.

The Free Conference Committee Report on **HB 250** was rejected.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 282, HB 301, HB 207, HB 517, HJR 27, HJR 28, HJR 29** and **HB 302** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:45 p.m.)

HB 282, HB 301, HB 207, HB 517, HJR 27, HJR 28, HJR 29 and **HB 302** delivered to the Senate and signed by the President. Delivered to the Governor on April 1, 1994 at 11:45 p.m.

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **SCR 135**:

SCR 135, A CONCURRENT RESOLUTION relating to adjournment.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives adjourn on Friday, April 1, 1994, they do so to convene again on Friday, April 15, 1994, at a time to be set by motion upon adjournment.

SCR 135 was adopted by voice vote.

Representative Stumbo moved that no further business be conducted on this day except for Enrolling and Engrossing of Bills, receipt of Senate Messages, signing of Bills and Adjournment. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Recess

Representative Stumbo moved that the House recess . Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 29, SB 51, SB 81, SB 171, SB 222, SB 262, SB 277, SB 308, SB 316** and **SB 348** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:45 p.m.)

Adjournment

Representative Adkins moved that the House adjourn until 10:00 a.m., Friday, April 15, 1994.

The motion to adjourn was adopted by voice vote.

FRIDAY, APRIL 15, 1994

SIXTIETH LEGISLATIVE DAY

The House was called to order by Speaker Clarke.

Prayer by Reverend Jay Ayers, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Hancock.

Representative Stumbo moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative Stumbo moved that any action which may have taken place on the House floor after 12:00 p.m., on April 1, 1994, but prior to April 15, 1994, be considered null and void. Agreed.

Representative McElroy moved that the reading of the Journal of April 1, 1994 be dispensed with and the same approved. Agreed.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Message from the Governor

The Clerk announced receipt of the Veto Message on **HB 302**. Date Received: April 13, 1994. Time Received: 4:27 p.m.

The veto message on **HB 302** is as follows:

Pursuant to the authority vested in me by Section 88 of the Constitution of Kentucky, I, Brereton C. Jones, Governor of the Commonwealth of Kentucky, do hereby veto **House Bill 302**.

As a result of action taken by the Free Conference Committee on **House Bill 302**, the Executive Budget, I am compelled to veto the Executive Branch budget bill, **House Bill 302**. This bill was passed by both the Senate and the House of Representatives on the fifty-ninth legislative day in the wake of its transformation by the Free Conference Committee.

For this entire Regular Session, the budget bill included a variety of badly needed job creation, economic diversification, renovation and repair, and other important capital construction projects vital to the Commonwealth's well-being and future growth. On the fifty-ninth legislative day, those projects disappeared literally overnight. As a consequence, the budget passed both chambers of the General Assembly was materially different from the budget that had been reviewed in depth during the period from January 24, when the budget was introduced, through more than two months of lengthy, detailed public hearings. The final Free Conference Committee product is unacceptable.

House Bill 302 represents a tremendous opportunity foregone. Together, the Governor and the General Assembly, have no more important responsibility when the Legislature is convened in Regular Session than to enact a responsible, balanced budget that provides for both the collective needs of the people as well as the individual needs of communities across this Commonwealth.

It is lacking in one of its fundamental responsibilities -- that is, providing for jobs, growth, economic diversification, and even basic maintenance and repair of public facilities throughout the length and breadth of this Commonwealth.

Few things were more important than the program to rebuild and restore Kentucky's State Parks to be the nation's finest. The existing Parks system was largely ignored for too many years. I proposed a $100 million State Parks Revitalization Program. The vast majority of these funds were for renovation and repair projects -- essentials such as new roofs, sewage treatment plants, water systems, electrical systems, heating, ventilating, and air conditioning, satisfying life safety codes, and disabled access -- the basic "nuts and bolts" kinds of improvements that are absolute necessities, not luxuries.

As introduced, the budget also proposed certain Parks improvements that would be income generating and improve the quality of life in local communities. The majority of these Parks improvement projects are located in rural Kentucky. They are part of the economic fabric of their local communities and part of the hope for future economic diversification -- through the promotion of tourism -- that these communities will need to rely upon when starkly confronted by the decline of traditional industries like tobacco and coal.

The Free Conference Committee Report on the budget get cut out ever single project and every single dollar for Parks Revitalization no matter how meritorious, how urgently needed, or how basic. This action I view to be unacceptable.

Projects with job-creation potential essential to local communities' prosperity were also cut in this process. Among those projects are important facilities on university and college campuses. A statewide library, an important urban medical research center, and Community College classrooms are prime examples. I also believe the Kentucky History Center in Frankfort to be very important. Many of these projects have been planned and design work has been funded and finished in many instances. Communities and private individuals were and are contributing substantial matching dollars in other instances. I do not think we can afford to ignore these important partnerships. We need to foster them for the continued economic growth of this state.

These projects need to be approved as part of this current budget process; we do not have the luxury of waiting. Why is this so?

- We have documented that the need is clear and apparent now on the individual projects.
- In many instances the matching funds, federal funds, or the local contribution will not remain available if we do not avail ourselves of them now. They will go to another state or for another purpose.
- Interest rates are relatively low, the lowest in several decades, despite their modes recent increase. We now can take advantage of this good timing to sell bonds in the financial markets. If we wait, interest rates will inevitably rise and the cost of worthwhile projects will ultimately be greater, not less. This is not a cost-effective way to do the Commonwealth's business.
- Finally, our communities have waited for economic diversification for too long.

We can, and should, enact a balanced, responsible, forward-thinking budget that serves the broad needs of Kentucky's people and communities. At the beginning of this session we proposed a balanced, workable budget that met the important goals we outlined again today. As I sign this veto, I reaffirm my commitment to work with the Legislature to find a solution within existing revenues to keep Kentucky moving ahead. I have not and will not ask anyone to revise the revenue estimates. Our economic future is too important to give the people of Kentucky a budget that neglects our state parks, hinders our continued economic growth, and limits educational opportunities for our children. I think the Governor and the General Assembly, together, can.

(Signed) Brereton C. Jones, Governor

April 13, 1994

(Signed) Evelyn Marston, House Clerk

April 13, 1994

The Speaker Pro Tempore assumed the Chair.

Speaker Clarke moved that the rules be suspended to address the House. Agreed.

Speaker Clarke addressed the House on the state of the Legislature.

The Speaker resumed the Chair.

Orders of the Day

Representative Stumbo moved that **HB 302** be taken from the Orders of the Day for consideration of the Governor's veto. Agreed.

Representative Long moved that the House sustain the Governor's veto.

On the roll call to sustain the Governor's veto, the vote was **Yeas 73**--Ackerson, Adams, Adkins, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Buis, Burch, Butler, Callahan, L. Clark, P. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Fox, French, Gedling, Geveden, Graham, Gray, Harper, Hatcher, Heleringer, Kerr, Lear, Lee, LeMaster, Lewis, Lile, Little, Long, Lyne, Maggard, Marzian, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Palumbo, Rapier, Richards, Ridley, Riggs, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Wayne, Worthington, Yates, Zimmerman. **Nays 25**--Allen, Altman, Bryant, Cave, Damron, DeWeese, Farley, Ford, Gee, Hampton, Johnson, Keith, Lindsay, Maricle, Napier, Nesler, Noland, Northup, Nunn, Rasche, Reinhardt, Riner, Treesh, Turner, Walton.

The Governor's veto of **HB 302** was sustained.

Representative Stumbo moved that the vote by which the Governor's veto was sustained on **HB 302** be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SCR 136**. (Time: 10:50 a.m.)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended to act upon **HB 250**. Agreed.

HB 250, with Free Conference Committee Report attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Scorsone moved the adoption of the following Free Conference Committee Report on **HB 250**.

The Free Conference Committee on **HB 250** has met as provided in the Rules of the House and the Senate and hereby reports the following to be adopted:

Adopt the provisions of the Second Senate Committee Substitute to **HB 250** with Senate Floor Amendments Nos. 1, 7, 9, 30, 31, 32, 33, 37, 38, 42, 48, 49, 50, 53, 57, 58, 59, 60, 64, 74, 75, 76, 87, and 89, and with the following amendment:

On page 13, line 23, by inserting after the word "*system*" the words, "*, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits*"; and

On page 13, line 26, by deleting "*and*"; and

On page 13, below line 27, by adding the following:

"*4. Health insurance costs; and*

5. The cost of health benefits covered by motor vehicle insurance and workers' compensation insurance;"; and

On page 14, between lines 6 and 7, by adding the following new subsection:

"*(3) All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Kentucky Health Policy Board the following information on their insurance experience in this state for the preceding calendar year:*

(a) Total premiums paid;

(b) Total cost of claims filed and paid;

(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;

(d) Total policies canceled by type and the aggregate reasons therefor;

(e) List of total health and medical services paid for, grouped by types of services and costs:

1. Total cost per health and medical service per insured group per month;

a. Cost paid by insurer;

b. Cost paid by insured; and

2. Percentage of insureds who received each service.

If the Kentucky Health Policy Board finds it necessary for the purposes of carrying out the provisions of Sections 5 to 10 of this Act, the board may require quarterly transmission to the board of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the board from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment."; and

On page 14, line 7, by renumbering "*(3)*" as "*(4)*"; and

On page 14, line 22, by inserting after "*periodic basis,*" the words "*which may include quarterly reporting,*"; and

On page 15, line 17, by inserting after the word "*data*" the words "*, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection*"; and

On page 18, line 14, by inserting after "*shall*" the words "*at least*"; and

On page 18, line 21, by inserting after "*shall*" the words "*at least*"; and

On page 78, line 7, before "*individual*" by inserting "*, upon approval by the Kentucky Health Policy Board,*"; and

On page 78, line 10, after "*1994*" by adding "*, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to Section 80 of this Act*"; and

On page 79, between lines 21 and 22, by inserting the following:

"*(c) With respect to those persons listed in subparagraphs 2. to 6. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.*"; and

On page 91, line 6, after "*and*" by inserting "*, upon approval by the Kentucky Health Policy Board,*"; and

On page 91, line 9, after "***1994***" by adding "***, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to Section 80 of this Act***"; and

On page 96, line 17, by deleting "***not***"; and

On page 101, after line 15 and before line 16, by inserting:

"SECTION 81. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer issuing group or blanket health insurance policies for delivery in this state shall, before use thereof, file with the commissioner its premium rates and classifications of risks pertaining to the policies. The insurer shall adhere to its rates and classifications as filed with the commissioner. The insurer may change the filings from time to time as it deems proper.

(2) No filing under this section that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within sixty (60) days after receiving a filing under this section containing a rate increase and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(3) The rates filed with the commissioner shall not be excessive, inadequate, or unfairly discriminatory.

(4) This section shall become null and void on July 1, 1996.

Section 82. KRS 304.17-383 is amended to read as follows:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) Not less than ten (10) days in advance of a hearing held under subsection (1) of this section, the commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to such a hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after a public hearing of which at least thirty (30) days' written notice has been given, may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged.

[~~(6) (a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:~~

~~1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;~~

~~2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this paragraph. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;~~

~~3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;~~

~~4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated loss ratio standards referred to in subparagraph 1. of this paragraph. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from the end~~

~~of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and~~

~~5. A guarantee that refunds of less than ten dollars ($10) will be aggregated by the insurer and paid to the Department of Insurance.~~

~~(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.]~~ " and by renumbering remaining sections accordingly; and

On page 148, line 16, after "personnel," by inserting "***shall***" and by placing brackets around and striking through "may"; and

On page 148, line 23, after "***Act.***" by inserting "***Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994.***";

And by amending Senate Floor Amendment 89 to Second Senate Committee Substitute for House Bill 250 as follows:

On page 3, by changing the changes to pages 77 and 90 of the 2nd SCS by deleting "***additional***" and inserting in lieu thereof "***supplemental***"; and

On page 4, by changing the changes to page 99, lines 19 and 20, and page 100, lines 8, 12, 20,.and 27 of the 2nd SCS by deleting "***additional***" and inserting in lieu thereof "***supplemental***"; and

On page 4, after "And on page 99, by deleting lines 24 to 27 in their entirety and insert in its place:" by deleting the underlined paragraph (c) and by inserting in its place:

"***(c) Each insurer may offer supplemental policies that are approved by the board and that are advertised, marketed, and designed as a supplement to the standard health benefit plans. No benefits paid under the supplemental policies shall duplicate benefits paid under the standard health benefit plans.***".

Signed: Representatives Ernesto Scorsone, Stephen Nunn, Bob DeWeese, Kenny Rapier, Jody Richards, and Larry Clark, and Senators Nick Kafoglis, John A. "Eck" Rose, John Rogers, and David K. Karem.

The above-named members, in separate votes by house, all concur in the provisions of this report.

On the roll call to adopt the Free Conference Committee Report on **HB 250**, the vote was **Yeas 64**--Adams, Adkins, Arnold, Barrows, Bentley, Bondurant, Bowling, Brown, Bruce, Burch, Butler, Callahan, L. Clark, Clarke, Coleman, Collins, Crenshaw, Curd, Cyrus, Damron, Deskins, DeWeese, Donnermeyer, Fox, French, Gedling, Geveden, Graham, Gray, Lear, Lee, LeMaster, Lewis, Little, Long, Lyne, Maggard, Marzian, Mason, McElroy, Moberly, Morris, Napier, Nunn, Palumbo, Rapier, Rasche, Reinhardt, Richards, Ridley, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, R. Smith, Stacy, Stengel, Stumbo, Trapp, Wayne, Worthington, Yates. **Nays 35**--Ackerson, Allen, Altman, Ballard, Bryant, Buis, Cave, P. Clark, Farley, Farrow, Ford, Gee, Hampton, Harper, Hatcher, Heleringer, Jensen, Johnson, Keith, Kerr, Lile, Lindsay, Maricle, Mullinix, Nelson, Nesler, Noland, Northup, Riggs, Todd, Treesh, Turner, Walton, Zimmerman.

The Free Conference Committee Report on **HB 250** was adopted.

Representative Scorsone moved that **HB 250**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 56, Nays 43. (See April 15, 1994 roll call on **HB 250** - Appendix)

HB 250, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 250** , as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 250** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:55 a.m.)

HB 250 delivered to the Senate and signed by the President. Delivered to the Governor on April 15, 1994 at 2:19 p.m.

Senate Message (Continued)

Announcing passage of **HCR 37**. (Time: 11:50 a.m.)

Motions, Petitions and Communications

Representative Lile moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 123, by Representative Lile: A RESOLUTION in honor of Joseph F. Drake, Sr.

Representative Lile moved the adoption of the following **HR 123**:

HR 123 A RESOLUTION in honor of Joseph F. Drake, Sr.

WHEREAS, Joseph F. Drake, Sr. was born on June 30, 1927, a native of Louisville, Jefferson County, Kentucky; and

WHEREAS, Joseph F. Drake, Sr. is the devoted husband of Charlene Smith Drake; and

WHEREAS, Joseph F. Drake, Sr. is the loving father of three sons: Joseph F. Drake, Jr., Phil Drake and Bruce Drake, and adored grandfather and great grandfather; and

WHEREAS, Joseph F. Drake, Sr., since 1960, has actively participated as coach and athletic director, and is currently the president of Valley Sports Little League in Pleasure Ridge Park, Louisville, Kentucky; and

WHEREAS, little league consists of t-ball for ages 5-7; peanuts for ages 8-9; major league for ages 10,11 and 12; senior boys for ages 13-15; big league for ages 16-18; and fast pitch softball for girls, ages 8-18; and

WHEREAS, Charlene Smith Drake must be recognized for her tremendous encouragement to her husband during his years with little league, and the many hours of service she has devoted as a board member of Valley Sports Little League and serving in the concession stands during the games; and

WHEREAS, Joseph F. Drake, Sr. has been an inspiration to Valley Sports Little League and continues to set an example of strong leadership to the youth of our Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is indeed proud to recognize Joseph F. Drake, Sr. for his excellent leadership qualities and many accomplishments he has attained throughout the years in Valley Sports Little League.

Section 2. That this august body expresses its most sincere gratitude to Joseph F. Drake, Sr. for his outstanding dedication and tireless efforts in serving the youth of our great Commonwealth.

Section 3. That the clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Joseph F. Drake, Sr., 7707 Trillium Drive, Louisville, Kentucky 40258.

HR 123 was adopted by voice vote.

Representative Collins moved the adoption of the following **Legislative Citation No. 199**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Stephen Slone Six Grade, Porter Elementary School for receiving first place in Congress at the 1994 Kentucky Educators Speech and Drama Association State Tournament, held March 11th-12th in Lexington, Kentucky and for winning the first place trophy for Duet Acting, along with a two hundred dollar saving bond for each award. The entire membership joins Representative Hubert Collins in commending such a talented, gifted and conscientious young man on his speaking and acting abilities and in extending its very best wishes on this memorable occasion and expresses the hope for continued success.

Representative Collins moved the adoption of the following **Legislative Citation No. 200**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Adam Allison, Seventh Grade, Porter Elementary School, for winning the first place trophy for Duet Acting, along with a two hundred dollar savings bond and for placing fifth in the Solo-Acting category at the 1994 Kentucky Educators Speech and Drama Association State Tournament, held on March 11th-12th in Lexington, Kentucky. The entire membership joins Representative Hubert Collins in commending such a talented, gifted and conscientious young man on his acting abilities and in extending its very best wishes on this memorable occasion and expresses the hope for continued success.

Representative Callahan moved the adoption of the following **Legislative Citation No. 203**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Virgil C. Dechant, Supreme Knight of the Knights of Columbus. Greetings to the illustrious International leader of the Knights of Columbus. Your expertise in charitable fund raising is phenomenal and your commitment to so many different projects throughout the world that offers relief, education, counseling, and a vast variety of other services to God's people is amazing. The entire membership joins Representative Jim Callahan in recognizing the good works of our Lord as he uses you as his instrument in aiding the world and in commending you for your devotion to God's work.

Representative Farrow moved the adoption of the following **Legislative Citation No. 201**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Marguerite P. Bray in recognition of her retirement as Door Keeper for The House of Representatives for twenty faithful years as Door Keeper during the Legislative Sessions of The House of Representatives. Your loyalty to the state of Kentucky and its Legislators has been greatly appreciated. Your presence has graced the halls of this Capitol and its employees for many years, and a host of people have come to know and admire you. The entire membership joins Representative C. M. "Hank" Hancock in bidding you adieu and thanking you for twenty years of unflagging service.

Recess

Representative Stumbo moved that the House recess. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HCR 37** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:11 p.m.)

HCR 37 delivered to the Senate and signed by the President. Delivered to the Governor on April 15, 1994 at 2:19 p.m.

Motions, Petitions and Communications (Continued)

Representative Lindsay moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Lindsay moved the adoption of the following **Legislative Citation No. 202**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Henderson Jr. Pro Basketball 9 Year-Old Boys All-Star Team for winning the National Championship Tournament played in Knoxville, Tennessee, March 31st through April 2nd. It is your hard work and superb athletic performance that put you on the road to victory and allowed you to capture the Western Kentucky Regional Tournament, the State Tournament, and finally the National Tournament. Your accomplishments have been outstanding, and have brought a great deal of pride to Henderson County and your community. The entire membership joins Representative Gross Lindsay in extending its very best wishes on this memorable occasion and expresses the hope for continued good fortune.

Representative Moberly moved the adoption of the following **Legislative Citation No. 194**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Tracey Ford for superb professional contribution as a General Assembly secretary during this 1994 Legislative Session. This honorable body does hereby extol the exceptional abilities and the proficient skills of said recipient and extends best wishes for the future.

Representative Geveden moved the adoption of the following **Legislative Citation No. 195**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Representative Jim LeMaster for inasmuch as there is honor, integrity, and statesmanship, there is the gentleman from Bourbon. Whereas, the gentleman from Bourbon has been given extraordinary honors by his colleagues in that he was chairman of the House Judiciary Committee, and assumed the esteemed Majority Floor Leader's position; and, whereas, the gentleman from Bourbon has been an extraordinary leader and a genuine friend to all of us during his eighteen year tenure in this honorable body in that he has established precedents that will be a part of the legislative process incessantly; this prestigious body does commend this exceptional member of the House of Representatives and send our most extraordinary memories and heartfelt friendship to color all future endeavors for an eternity.

Representative Barrows moved the adoption of the following **Legislative Citation No. 206**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends Representative C. M. "Hank" Hancock for his diligent service in the Kentucky House of Representatives since 1974. This honorable and dedicated public servant has contributed to the betterment of his state through membership on the Committees on Cities, Natural Resources and the Environment, Counties and Special Districts, Transportation and Appropriations and Revenue. His thorough review of legislation and his commitment to his constituents mark a career that stands as a model for his peers and an example for those who follow him.

Representative Johnson moved the adoption of the following **Legislative Citation No. 196**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest condolences and expressions of sympathy to The Larry Wethington Family on the passing of Larry Wethington, past president of Apollo High School's Booster Club, strong parent volunteer, and a staunch supporter of various projects for senior graduation at Apollo High School. His devotion to Apollo High School, its pupils and staff will be deeply missed. The entire membership joins Representative Louis Johnson on this mournful occasion in memory of a friend and distinguished citizen of this great Commonwealth of Kentucky, Larry Wethington.

Representative Johnson moved the adoption of the following **Legislative Citation No. 197**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest condolences and expressions of sympathy to The John Whitmer Family on the passing of John Whitmer, educator for twenty-eight years, boy's basketball coach during 1979-87, and girl's basketball coach during 1991-94 at Apollo High School, in Owensboro, Kentucky. Coach Whitmer's superb talent for coaching basketball, sense of humor and loving concern for his students will be deeply missed. The entire membership joins with Representative Louis Johnson on this most somber occasion in memory of an educator, basketball coach and a distinguished gentleman, John Whitmer.

Representative Johnson moved the adoption of the following **Legislative Citation No. 198**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to Laurie Townsend Apollo High School "E-Gals" Girl's Basketball Team for outstanding performance as a member of the "E-Gals", girl's basketball team at Apollo High School. Your achievements during your athletic career have earned you recognition as Apollo's all-time high scorer. Your contributions to the "E-Gals", girl's basketball team have been spectacular, and you have brought a great deal of pride to Apollo High School and your community. The House of Representatives joins with Representative Louis Johnson in honoring you on your many achievements and wishes you every success as you further your academic and athletic career.

Representative Rasche moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Rasche moved the adoption of the following **Legislative Citation No. 207**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Fred Paxton in recognition of his outstanding community leadership and dedicated efforts to develop and create additional professional training opportunities in Paducah. Pubic service such as this will ensure the community a bright and progressive future. The entire membership joins Representative Frank Rasche and Representative Charles Geveden in extending its very best wishes on this memorable occasion and expresses the hope for continued good fortune.

Representative Rasche moved the adoption of the following **Legislative Citation No. 208**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Representative Charles Geveden in recognition of his outstanding legislative leadership and dedicated efforts to develop and create additional professional training opportunities in Paducah. Pubic service such as this will ensure the community a bright and progressive future. The entire membership joins Representative Frank Rasche in extending its very best wishes on this memorable occasion and expresses the hope for continued good fortune.

Representative Rasche moved the adoption of the following **Legislative Citation No. 209**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Senator Bob Leeper in recognition of his outstanding legislative leadership and dedicated efforts to develop and create additional professional training opportunities in Paducah. Pubic service such as this will ensure the community a bright and progressive future. The entire membership joins Representative Frank Rasche in extending its very best wishes on this memorable occasion and expresses the hope for continued good fortune.

Representative Riner moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 124, by Representative Riner: A RESOLUTION requesting the Texas Legislature, Governor, and Supreme Court to recognize the national asset of the Rebekah Home for Girls and the Lighthouse for Men, which are operated by Corpus Christi People's Baptist Church.

Representative Riner moved the adoption of the following **HR 124**:

HR 124, A RESOLUTION requesting the Texas Legislature, Governor, and Supreme Court to recognize the national asset of the Rebekah Home for Girls and the Lighthouse for Men, which are operated by Corpus Christi People's Baptist Church.

WHEREAS, Corpus Christi People's Baptist Church has been nationally recognized for helping thousands of troubled youth to recover from the destructive paths of criminal behavior, suicide, permissive sex, and drug and alcohol abuse; and

WHEREAS, children from throughout the United States, including many from the Commonwealth of Kentucky, have been permanently regenerated and restored as a result of the tranquil, disciplined, loving atmosphere at the Rebekah Home for Girls and the Lighthouse for Men in Corpus Christi; and

WHEREAS, 14,000 children and 6,000 young adults from across the United States plus hundreds from Kentucky have been served by these facilities; and

WHEREAS, this exemplary ministry to some of America's most desperate at-risk children has saved taxpayers millions of dollars and more importantly succeeded in helping youth when state institutions had failed to achieve success; and

WHEREAS, in 1984 the Texas Supreme Court recognized these homes to "have a good record of high quality service"; and

WHEREAS, the Legislature of the State of Texas has created the Texas Commission on Children and Youth to develop programs to reduce school dropouts and to improve services for predelinquent and at-risk children in the juvenile justice system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Commonwealth of Kentucky does hereby commend the unparalleled success of the homes for distressed children operated by Corpus Christi People's Baptist Church and asks that the Legislature, Governor, and Supreme Court of Texas recognize the national asset which these homes are for the children of America and that they study what can be done to cooperate with and enhance this invaluable mission to America's children.

Section 2. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to the presiding officers of both houses of the Texas Legislature.

HR 124 was adopted by voice vote.

Representative Simpson moved the adoption of the following **Legislative Citation No. 205**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Holy Cross Indians Girls' Basketball Team in recognition of their accomplishments during the 1993-94 school year and further offers their sincerest congratulations on winning their first 34th District Championship. Their contributions have been outstanding, and they have brought a great deal of recognition to the Holy Cross Girls Basketball Team and their community. The House of Representatives joins with Representative Arnold R. Simpson in honoring them on their many achievements and wishes them every success as they further their academic and athletic careers.

Representative Simpson moved the adoption of the following **Legislative Citation No. 204**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Holy Cross Indians Boys' Basketball Team in recognition of their accomplishments during the 1993-94 school year and further offers their sincerest congratulations on winning the Ninth Region Tournament and for competing in the quarter-final rounds of the State Tournament. Their contributions have been outstanding, and they have brought a great deal of recognition to the Holy Cross Boys Basketball Team and their community. The House of Representatives joins with Representative Arnold R. Simpson in honoring them on their many achievements and wishes them every success as they further their academic and athletic careers.

Representative Stumbo moved that the Journal of April 15, 1994 be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **SCR 136**:

SCR 136, A CONCURRENT RESOLUTION adjourning the 1994 Regular Session of the General Assembly sine die.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives adjourn on Friday, April 15, 1994, they do adjourn sine die.

On the roll call to adopt **SCR 136**, the vote was **Yeas 83**–Ackerson, Adams, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bryant, Buis, Butler, Callahan, Cave, L. Clark, P. Clark, Clarke, Coleman, Crenshaw, Curd, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Ford, Fox, French, Gedling, Gee, Geveden, Graham, Gray, Hampton, Harper, Hatcher, Johnson, Keith, Kerr, Lee, Lewis, Lindsay, Little, Long, Lyne, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Mullinix, Napier, Nesler, Noland, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Scott, Shacklette, Simpson, B. Smith, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Wayne, Worthington, Yates, Zimmerman. **Nays 0**.

SCR 136 was adopted.

The Journal of the House of Representatives was read, compared and approved by the House.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea"on **HB 513, HB 712,** and **HB 851**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on Floor Amendment No. 3 to **HB 110, HB 297, HB 56, HB 754, HB 222, HB 510, HB 370, HB 485, HB 110, HB 374, HB 551,** Floor Amendment No. 11 to **HB 928, HJR 62, HCR 44, SB 361, SB 81,** Floor Amendment No. 4 to **HB 316** and "nay" on the concurrence of Senate Committee Amendment No. 1 to **HB 385, HB 385, HB 419, HB 287, HCR 48,** and Floor Amendment No. 1 to **SB 81**. Agreed.

Representative Palumbo moved that her vote be changed from "yea" to "nay" on **HB 183,** Senate Committee Amendment to **HB 183** and "nay" to "yea" on Committee Amendment No. 2 to **HB 928, HB 351** and **HB 425**. Agreed.

Announcements

The Clerk announced the following meeting:

Joint meeting of the Committee on Health and Welfare, upon adjournment, Room 125.

Adjournment

Representative Stumbo moved that the House adjourn sine die until Tuesday, January 3, 1995 unless called into extraordinary session by the Governor.

On the roll call the vote was **Yeas 73**–Ackerson, Adams, Altman, Arnold, Ballard, Barrows, Bentley, Bondurant, Bowling, Brown, Bryant, Buis, Butler, Callahan, Cave, L. Clark, Clarke, Coleman, Crenshaw, Cyrus, Damron, DeWeese, Donnermeyer, Farley, Farrow, Ford, Fox, French, Gee, Geveden, Graham, Gray, Hatcher, Johnson, Keith, Lee, Lewis, Lile, Lindsay, Little, Maggard, Maricle, Marzian, Mason, McElroy, Moberly, Mullinix, Napier, Nesler, Noland, Nunn, Palumbo, Rapier, Rasche, Richards, Ridley, Riggs, Riner, Scorsone, Scott, Shacklette, Simpson, Stacy, Stengel, Stumbo, Todd, Trapp, Treesh, Turner, Walton, Worthington, Yates, Zimmerman. **Nays 0**.

The motion that the House adjourn sine die until January 3, 1995 unless called into extraordinary session by the Governor was adopted.

The House adjourned sine die.